

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

REGULAR MEETING TUESDAY, JUNE 28, 2016 VETERANS MEMORIAL HALL - 6:00 P.M. 209 SURF ST., MORRO BAY, CA

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

PRESENTATIONS – None

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and city of residence for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

- A-1 APPROVAL OF MINUTES FROM THE MAY 31, 2016 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FROM THE JUNE 1, 2016 CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FROM THE JUNE 14, 2016 CLOSED SESSION CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 ADOPTION OF RESOLUTION 50-16 ESTABLISHING THE ANNUAL PROPOSITION 4 APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2016/17; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution 50-16.

- A-5 ADOPTION OF RESOLUTION 51-16 SUPPORTING THE NATIONAL REVENUE NEUTRAL CARBON FEE AND DIVIDEND PROGRAM; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution 51-16.

- A-6 AUTHORIZATION TO FILE NOTICE OF COMPLETION FOR PROJECT NO. MB2016-WW06, MMRP: BLENDING VALVES REPLACEMENT; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

- A-7 APPROVAL OF LICENSE AGREEMENT FOR 570 DUNES STREET; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-8 ADOPT RESOLUTION NO. 55-16 ESTABLISHING THE COMPENSATION AND BENEFITS FOR UNREPRESENTED CONFIDENTIAL EMPLOYEES OF THE CITY OF MORRO BAY; (ADMINISTRATIVE SERVICES DIRECTOR)

RECOMMENDATION: Adopt Resolution No. 55-16.

- A-9 ADOPTION OF RESOLUTION NO. 56-16 AMENDING THE EARLY RETIREMENT MANAGEMENT PROGRAM FOR THE FISCAL YEAR 2016/17 APPROVED BY RESOLUTION NO. 22-16; (ADMINISTRATION)

RECOMMENDATION: Adopt Resolution No. 56-16

B. PUBLIC HEARINGS

- B-1 INTRODUCTION AND FIRST READING OF ORDINANCE 601, AS AMENDED, TO ENABLE THE USE OF SECONDARY DWELLING UNITS AS VACATION RENTALS SUBJECT TO CERTAIN CONDITIONS: LOCAL COASTAL PROGRAM AND ZONING TEXT AMENDMENT (#A00-029) AMENDING TITLE 17 PROVISIONS RELATED TO SECONDARY DWELLING UNITS AND GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Accept the Planning Commission recommendation to adopt text amendments to Title 17 outlined in Exhibit A attached to Ordinance 601; move to waive reading of Ordinance 601 in its entirety and introduce for first reading by number and title only; and direct staff to submit a Local Coastal Program (LCP) Amendment to Coastal Commission after second reading and adoption.

- B-2 ADOPTION RESOLUTION 52-16 DIRECTING LEVY OF THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT; (PUBLIC WORKS)

RECOMMENDATION: Hold a public hearing and adopt Resolution 52-16.

- B-3 ADOPTION RESOLUTION 53-16 DIRECTING LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT; (PUBLIC WORKS)

RECOMMENDATION: Hold a public hearing and adopt Resolution 53-16.

C. BUSINESS ITEMS

- C-1 ADOPTION OF RESOLUTION NO. 54-16 MEMORIALIZING THE HISTORIC PARKING CREDITS INTERPRETATION, TEMPORARILY SUSPENDING PARKING IN-LIEU FEES FOR THE EMBARCADERO AND DOWNTOWN AREAS, AND DIRECTING THE EVALUATION OF THE COMMERCIAL PARKING PROGRAM; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Adopt Resolution No. 54-16.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, July 12, 2016 at 6:00 pm** at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – MAY 31, 2016
COMMUNITY CENTER MULTI-PURPOSE ROOM
1001 KENNEDY WAY – 3:30 P.M.

AGENDA NO: A-1

MEETING DATE: June 28, 2016

PRESENT:	Jamie Irons	Mayor
	Matt Makowetski	Councilmember
	John Headding	Councilmember
	Christine Johnson	Councilmember
	Noah Smukler	Councilmember – <i>arrived at 3:53 p.m.</i>
STAFF:	Dave Buckingham	City Manager
	Dana Swanson	City Clerk
	Susan Slayton	Administrative Services Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Manager
	Eric Endersby	Harbor Director
	Amy Christey	Police Chief
	Steve Knuckles	Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons established a quorum and called the meeting to order at 3:35 p.m., with all but Councilmember Smukler present. Councilmember Smukler joined the meeting at 3:53 p.m.

SPECIAL MEETING AGENDA ITEMS:

I. ADVISORY BOARD INTERVIEWS

Tourism Business Improvement District (TBID) Advisory Board interviews for two (2) openings:

- One current vacancy for a Hotelier member-at-large to serve the remainder of a 4-year term ending January 31, 2019
- One current vacancy for a Member-at-large to serve the remainder of a 4-year term ending January 31, 2019
<https://youtu.be/5scOhA8EofQ?t=1m20s>

The City Clerk read a portion of an email received from Katherine Caldwell explaining she was instructed to report to jury duty at the San Luis Obispo Courthouse and therefore unable to participate in the interview process.

The following applicants were interviewed to fill two (2) vacancies on the TBID Advisory Board: Joel Clay, Margaret Juren, Paresh Patel and Paul VanBeurden.

The City Council voted by written ballot and the City Clerk read the results: For the TBID Advisory Board Hotelier Member-at-large position, Margaret Juren received four votes (Councilmembers Headding, Johnson, Makowetski and Smukler) and Paresh Patel received one vote (Mayor Irons). Margaret Juren was appointed to serve on the TBID Advisory Board for the remainder of a four-year term ending January 31, 2019. For the TBID Advisory Board Member-

at-large position, Paul VanBeurden received unanimous support and was appointed to serve the remainder of a 4-year term ending January 31, 2019.

A brief recess was taken at 4:14pm; the meeting reconvened at 4:24pm.

II. FY 2016/17 BUDGET STUDY SESSION

City Manager Buckingham reviewed revisions made to the draft FY 2016/17 budget since the May 24th Study Session and responded to Council inquiries. (Click [here](#) to view the PowerPoint presentation.)

PUBLIC COMMENT RE: ITEMS ON THE AGENDA

The public comment period was opened. Seeing none, the public comment period was closed.

The Council expressed support for Goal Related Spending as provided in the revised budget letter. The budget will be brought to the June 14, 2016, City Council meeting for final approval.

ADJOURNMENT

The meeting adjourned at 5:02p.m.

Recorded by:

Dana Swanson
City Clerk

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
JUNE 1, 2016
CITY HALL CONFERENCE ROOM–4:00 P.M.

AGENDA NO: A-2

MEETING DATE: June 28, 2016

PRESENT: Jamie Irons Mayor
 John Headding Councilmember
 Christine Johnson Councilmember
 Matt Makowetski Councilmember
 Noah Smukler Councilmember *arrived at 4:30 p.m.*

STAFF PRESENT: Dave Buckingham City Manager
 Colin Tanner Special Labor Counsel
 Susan Slayton Administrative Services Director

ESTABLISH QUORUM AND CALL TO ORDER – A quorum was established and the meeting was called to order at 4:05 p.m. with all members but Member Smukler present. Councilmember Smukler joined the meeting at 4:30 p.m.

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for public comments for items only on the agenda; seeing none, the public comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representative: Colin Tanner, Special Labor Counsel

Unrepresented Employees: City Manager, Deputy City Manager, Administrative Services Director, Harbor Director, Police Chief, Fire Chief, Public Works Director, Management Employees, and Confidential Employees

Employee Organizations: Morro Bay Firefighters' Association; Morro Bay Police Officers' Association; Service Employee's International Union - SEIU Local 620

RECONVENE TO OPEN SESSION - The City Council reconvened to Open Session. The Council did not take any reportable action pursuant to the Brown Act.

ADJOURNMENT

The meeting adjourned at 6:30 p.m.

Recorded by:

Dana Swanson
City Clerk

AGENDA NO: A-3
MEETING DATE: June 28, 2016

Dana Swanson
City Clerk



AGENDA NO: A-4

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: June 10, 2016

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Adoption of Resolution No. 50-16 Establishing the Annual Proposition 4 Appropriations Limit for the Fiscal Year 2016/17

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 50-16, which sets the FY 16/17 appropriations limit at \$24,846,376.

FISCAL IMPACT

None

SUMMARY

State law requires the adoption of an annual appropriations limit, which restricts the growth of tax-funded programs and services by limiting the appropriation of proceeds of taxes. As permitted by law, the City has chosen to use the most advantageous factor in calculating that limit for the City of Morro Bay, which for FY 16/17 is the City of Morro Bay population growth, and the California Per Capita Personal Income ("CPCPI"). For FY 16/17, the City of Morro Bay continues to remain well under its appropriations limit.

BACKGROUND

Proposition 4, more commonly known as the Gann Initiative, was approved by the California electorate in November 1979. It is intended to restrict growth of tax-funded programs and services by limiting the appropriation of the proceeds of taxes to the 1978/79 base year limit, as adjusted annually for changes in population and inflation. Proceeds of taxes, in excess of the appropriations limit, with some exceptions, must be returned to the taxpayers by refund or reduction in tax rates, unless an extension of the limit is approved by majority popular vote. Proceeds of taxes include tax revenues and investment earnings, related to those tax revenues, proceeds from licenses and users/charges to the extent that they exceed the cost to cover those services, and discretionary tax funds used for contingency, emergency, unemployment, reserve and retirement sinking funds, trust, or similar funds.

In June 1990, the California voters approved Proposition 111, amending the Gann Initiative to provide local agencies with the option of using either the city or county population change percentage (whichever is greater). Another provision of the amendment states the Gann limit would

Prepared By: SS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

be triggered only if tax proceeds exceed the limit for two consecutive fiscal years. Additionally, the proposition requires an annual review of the appropriations limit calculation by a qualified independent auditor, in conjunction with the annual financial audit.

Government Code Section 7910(a) states: “Each year, the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year, pursuant to Article XIII B of the California Constitution, at a regularly scheduled meeting or noticed special meeting. Fifteen days prior to the meeting, documentation used in the determination of the appropriations limit and other necessary determinations shall be available to the public. The determinations made pursuant to this section are legislative acts.”

Staff prepared the documentation on June 10, 2016, and it is available at City Hall, upon request.

DISCUSSION

According to the estimates received from the California Department of Finance office, the population of Morro Bay increased by 0.77 percent between January 1, 2015 and January 1, 2016, while the San Luis Obispo County population increased by 0.60 percent for that same time period. It is most advantageous for the City to use the larger of the two percentages, which is the City population growth factor this year. The CPCPI increased by 5.37 percent. Applying those factors results in:

Prior year limit		\$23,399,944
Multiply by CPCPI change	x	1.0537
Multiply by MB City change in population	x	<u>1.0077</u>
Equals	=	<u>\$24,846,376</u>

The FY 16/17 budget estimate of revenues from the proceeds of taxes is \$12,135,284, which is well below the appropriations limit by \$12,711,092.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 50-16, which sets the FY 16/17 appropriations limit at \$24,846,376.

RESOLUTION NO. 50-16

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
ESTABLISHING THE ANNUAL PROPOSITION 4
APPROPRIATIONS LIMIT FOR THE FISCAL YEAR 2016/17**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, Article XIII B of the California Constitution restricts the appropriation of tax proceeds that the City receives in any given fiscal year; and

WHEREAS, the City has calculated the FY 16/17 appropriations limit, in accordance with the provisions of Article XIII B of the California Constitution; and

WHEREAS, Proposition 111 of June 1990 requires an annual election of the methodology used in the calculation of the current year appropriations limit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, to adopt Resolution No. 50-16, which accepts the calculation of the FY 16/17 appropriations limit, as prepared by the Morro Bay Finance Department, and establishes the FY 16/17 appropriations limit at \$24,846,376.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 28th day of June 2016, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

CITY OF MORRO BAY
APPROPRIATION LIMIT DOCUMENTATION
FISCAL YEAR 2016/17

	General	District Trans Tax	MTBID	CTMD	GFER	GF Fac Maint	Special Gas Tax	CDBG	Traffic Safety	SLESF COPS	Transit	LTF Roads	LTF Bikepaths	Water Ops
Property taxes	3,709,653	-	-	-	-	-	-	-	-	-	-	-	-	-
Other taxes:														
Sales tax	1,829,224	1,019,199	-	-	-	-	-	-	-	-	-	-	-	-
Franchises fees	517,140	-	-	-	-	-	-	-	-	-	-	-	-	-
Other	3,372,063	-	831,606	330,964	-	-	-	-	-	-	-	-	-	-
Licenses/permits	581,320	-	-	-	-	-	-	-	-	-	-	-	-	-
Revenue from other agencies:														
State	32,219	-	-	-	-	-	237,562	-	-	100,000	425,127	73,292	7,858	-
State/County grants	-	-	-	-	-	-	-	168,530	-	-	-	-	-	-
Federal grants	26,589	-	-	-	-	-	-	-	-	-	-	-	-	-
Use of money and property:														
Interest	-	-	-	-	20,000	-	-	-	-	-	-	-	-	-
Rent	381,301	-	-	-	-	108,000	-	-	-	-	-	-	-	-
Fines/Forfeitures	12,500	-	-	-	-	-	-	-	13,000	-	-	-	-	-
Charges for services	1,087,352	-	-	-	-	-	-	-	-	-	44,000	44,000	-	5,137,800
Other revenues	13,300	-	20,000	-	-	-	-	-	-	-	-	-	-	-
	<u>11,562,661</u>	<u>1,019,199</u>	<u>851,606</u>	<u>330,964</u>	<u>20,000</u>	<u>108,000</u>	<u>237,562</u>	<u>168,530</u>	<u>13,000</u>	<u>100,000</u>	<u>469,127</u>	<u>117,292</u>	<u>7,858</u>	<u>5,137,800</u>

	Sewer Ops	Harbor Ops	Risk Management	Special Assessmt LMD	Special Assessmt LMD Cloisters	MB/CSD WWTF	Gov Impact	Unfunded Leaves	State Park Marina	Housing In-Lieu	Water Accum	Sewer Accum	Harbor Accum	TOTAL ESTIMATED REVENUES
Property taxes	-	-	-	-	-	-	-	-	-	-	-	-	-	3,709,653
Other taxes:														
Sales tax	-	-	-	-	-	-	-	-	-	-	-	-	-	2,848,423
Franchises fees	-	-	-	-	-	-	-	-	-	-	-	-	-	517,140
Other	-	-	-	8,477	148,944	-	-	-	-	-	-	-	-	4,692,054
Licenses/permits	-	-	-	-	-	-	-	-	-	-	-	-	-	581,320
Revenue from other agencies:														
State	-	-	-	-	-	-	-	-	-	-	-	-	-	876,058
State/County grants	-	-	-	-	-	-	-	-	-	-	-	-	-	168,530
Federal grants	-	-	-	-	-	-	-	-	-	-	-	-	-	26,589
Use of money and property:														
Interest	-	-	600	-	-	-	-	-	-	700	7,500	-	-	28,800
Rent	-	-	-	-	-	-	-	-	-	-	-	-	-	489,301
Fines/Forfeitures	-	-	-	-	-	-	-	-	-	-	-	-	-	25,500
Charges for services	5,608,000	2,290,666	1,385,778	-	-	2,387,051	226,000	-	80,000	-	63,200	60,000	-	18,413,847
Other revenues	-	-	-	-	-	5,946,605	-	66,732	-	-	-	-	-	6,046,637
	<u>5,608,000</u>	<u>2,290,666</u>	<u>1,386,378</u>	<u>8,477</u>	<u>148,944</u>	<u>8,333,656</u>	<u>226,000</u>	<u>66,732</u>	<u>80,000</u>	<u>700</u>	<u>70,700</u>	<u>60,000</u>	<u>-</u>	<u>38,423,852</u>

**CITY OF MORRO BAY
APPROPRIATION LIMIT DOCUMENTATION
FISCAL YEAR 2016/17**

<u>PROCEEDS OF TAXES CALCULATION</u>				<u>APPROPRIATION LIMIT CALCULATION</u>			
	[1] PROCEEDS OF TAXES	PROCEEDS OTHER THAN TAXES	TOTAL ESTIMATED REVENUES	YEAR	[2] CALIFORNIA PCPI CHANGE	[3] POPULATION CHANGE	<u>LIMIT</u>
PROPERTY TAXES	\$ 3,709,653	\$	\$ 3,709,653	1978-79	BASE YEAR		\$ 3,046,393
OTHER TAXES	7,540,477	517,140	8,057,617	1979-80	10.17%	1.38%	3,402,527
PERMITS		581,320	581,320	1980-81	10.53%	0.26%	3,770,591
REVENUE FROM AGENCIES				1981-82	9.12%	1.39%	4,171,660
STATE	876,058		876,058	1982-83	6.79%	2.04%	4,545,796
STATE/COUNTY GRANTS	-	168,530	168,530	1983-84	2.35%	1.81%	4,736,835
FEDERAL GRANTS	-	26,589	26,589	1984-85	4.74%	1.75%	5,048,185
USE OF MONEY & PROPERTY				1985-86	3.74%	1.62%	5,321,826
INTEREST	9,096	19,704	28,800	1986-87	2.30%	4.12%	5,668,530
RENT		489,301	489,301	1987-88	3.04%	2.93%	6,011,990
FINES & FORFEITURES		25,500	25,500	1988-89	3.93%	3.83%	6,487,570
CHARGES FOR SERVICES		18,413,847	18,413,847	1989-90	4.98%	3.92%	7,077,629
OTHER REVENUES		6,046,637	6,046,637	1990-91	4.21%	4.59%	7,714,137
	<u>\$ 12,135,284</u>	<u>\$ 26,288,568</u>	<u>\$ 38,423,852</u>	1991-92	4.14%	3.04%	8,277,721
				1992-93	-0.64%	1.00%	8,306,991
				1993-94	2.72%	1.86%	8,691,654
				1994-95	0.71%	1.40%	8,875,912
				1995-96	4.72%	1.60%	9,443,573
				1996-97	4.67%	2.31%	10,112,922
				1997-98	4.67%	2.06%	10,803,250
				1998-99	4.15%	2.70%	11,555,378
				1999-2000	4.53%	2.28%	12,354,234
				2000-01	4.91%	2.46%	13,279,663
				2001-02	7.82%	1.60%	14,547,223
				2002-03	-1.27%	1.80%	14,620,998
				2003-04	2.31%	1.32%	15,156,198
				2004-05	3.28%	1.15%	15,833,334
				2005-06	5.26%	1.19%	16,864,495
				2006-07	3.96%	0.73%	17,660,315
				2007-08	4.42%	0.96%	18,617,934
				2008-09	4.29%	1.12%	19,634,110
				2009-10	0.62%	1.01%	19,955,375
				2010-11	-2.54%	0.87%	19,617,710
				2011-12	2.51%	1.09%	20,329,315
				2012-13	3.77%	0.47%	21,194,880
				2013-14	5.12%	0.52%	22,395,914
				2014-15	-0.23%	0.09%	22,364,513
				2015-16	3.82%	0.78%	23,399,944
				2016-17	5.37%	0.77%	24,846,376
				PROCEEDS OF TAXES			<u>12,135,284</u>
				PROCEEDS OF TAXES UNDER APPROPRIATION LIMIT			<u>\$ 12,711,092</u>

[1] Per City of Morro Bay FY 16/17 Adopted Annual Budget, total *All Funds Revenues* less transfers.

[2] Per State Department of Finance (per capita personal income); FY 16/17 = 5.37%

[3] Per State Department of Finance (population growth of City or County, whichever is greater); FY 16/17 MB = 0.77%; SLO County = .60%

Fiscal Year 2016-17

Annual Percent Change in Population Minus Exclusions*
January 1, 2015 to January 1, 2016 and Total Population, January 1, 2016

County City	<u>Percent Change</u>	<u>--- Population Minus Exclusions ---</u>		<u>Total Population</u>
	2015-2016	1-1-15	1-1-16	1-1-2016
San Luis Obispo				
Arroyo Grande	0.30	17,678	17,731	17,731
Atascadero	1.44	29,307	29,729	30,879
El Paso De Robles	0.16	31,348	31,398	31,398
Grover Beach	0.43	13,340	13,397	13,397
Morro Bay	0.77	10,640	10,722	10,722
Pismo Beach	1.40	8,068	8,181	8,181
San Luis Obispo	0.36	45,950	46,117	46,117
Unincorporated	0.60	114,913	115,603	119,552
County Total	0.60	271,244	272,878	277,977

*Exclusions include residents on federal military installations and group quarters residents in state mental institutions, state and federal correctional institutions and veteran homes.



May 2016

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit

The California Revenue and Taxation Code, section 2227, requires the Department of Finance (Finance) to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2016, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2016-17. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2016-17 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts

Some special districts must establish an annual appropriations limit. The Revenue and Taxation Code, section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The Code and the California Constitution can be accessed at the following website: <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification

The population certification program applies only to cities and counties. Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2016.**

Please Note: Prior year's city population estimates may be revised.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

MICHAEL COHEN
Director
By:

AMY COSTA
Chief Deputy Director

Attachment

ATTACHMENT D

May 2016

- A. **Price Factor:** Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2016-17 appropriation limit is:

Per Capita Personal Income	
Fiscal Year (FY)	Percentage change over prior year
2016-17	5.37

- B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2016-17 appropriation limit.

2016-17:

Per Capita Cost of Living Change = 5.37 percent
Population Change = 0.90 percent

Per Capita Cost of Living converted to a ratio: $\frac{5.37 + 100}{100} = 1.0537$

Population converted to a ratio: $\frac{0.90 + 100}{100} = 1.0090$

Calculation of factor for FY 2016-17: $1.0537 \times 1.0090 = 1.0632$



AGENDA NO: A-5

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: June 16, 2016

FROM: David Buckingham, City Manager

SUBJECT: Adoption of Resolution No. 51-16 Supporting the National Revenue Neutral Carbon Fee and Dividend Program

RECOMMENDATION

Staff is bringing this item to council based on council-approved direction to place the item on the agenda recommends the Council consider approval of Resolution No. 51-16 expressing the City's support for the National Revenue-Neutral Carbon Fee and Dividend Program.

ALTERNATIVES

The Council may choose not to support the Resolution or make modifications.

FISCAL IMPACT

There are no direct fiscal impacts associated with this action.

BACKGROUND/DISCUSSION

Many believe greenhouse gas emissions from human activities, such as the burning of fossil fuels, are a key contributor to the current rise in global temperatures.

This issue was discussed during public comment at the May 24, 2016, City Council meeting and the Council directed staff to place the item on an upcoming agenda. Passage of this Resolution would confirm the City of Morro Bay's support for Citizen Climate Lobby's National Revenue Neutral Carbon Fee and Dividend Act.

By approving the attached Resolution, the City requests the United States Congress immediately enact legislation and the United States President sign into law a National Revenue Neutral Carbon Fee and Dividend Program. Further, the attached Resolution would direct the Mayor to send a letter no later than 30 days after passage of this Resolution by the Morro Bay City Council to all Mayors and City Councils; County Boards of Supervisors; School Boards; and State and Federal legislators in San Luis Obispo, Monterey and Santa Barbara Counties; the Governor of California; and the San Luis Obispo Council of

Prepared By: DS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

Governments urging support for a National Revenue Neutral Fee and Dividend Act and urging them to adopt a resolution in favor of National Revenue Neutral Carbon Fee and Dividend legislation.

CONCLUSION

Staff recommends Council consider approval of Resolution No. 51-16 expressing the City's support for the National Revenue Neutral Carbon Fee and Dividend Program.

RESOLUTION NO. 51-16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
REGARDING THE NATIONAL REVENUE-NEUTRAL CARBON FEE AND
DIVIDEND PROGRAM**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, having determined the Carbon Fee and Dividend legislative principles proposed by the non-partisan Citizens Climate Lobby, attached hereto as Exhibit A, would provide an efficient approach to shifting the incentives that keep the United States reliant on fossil fuel energy and would, thereby, help support the rapid deployment of cleaner energy alternatives; and

WHEREAS, having determined that approach would be fair to everyone and would protect middle- and low-income households by providing them with a dividend (also known as a rebate) that, on average, would be higher than the increased costs for energy for two-thirds of all households (specifically the lowest income two-thirds) during the transition to cleaner energy; and

WHEREAS, per the non-partisan study by Regional Economic Models, Inc., (RMI), that approach would ensure a substantial increase in private investment in cleaner energy options because they will become significantly less expensive relative to fossil fuels within a known time frame; and

WHEREAS, the approach would encourage consumers and businesses to keep their carbon footprint smaller while still ensuring that all households would be able to afford the energy they need during the transition to cleaner energy; and

WHEREAS, the City wishes to respond to those challenges with a business-minded focus; and

WHEREAS, having determined early adoption of the National Revenue-Neutral Carbon Fee and Dividend legislation in the United States would grow our economy, add nearly two million jobs, help make us a world leader in cleaner-energy technology, and help establish the United States as a leader in future global climate negotiations; and

WHEREAS, the national revenue-neutral carbon fee and dividend has already garnered widespread support from Republicans as well as Democrats as evidenced by recent op-eds and public statements in 2015 by prominent political leaders.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Morro Bay requests:

1. the United States Congress immediately enact legislation and the United States President sign into law a national revenue-neutral carbon fee and dividend program, as provided for in Exhibit A, in order to protect the economy and the climate for future generations.

2. The Mayor is hereby directed to send a letter, no later than 30 days after passage of this Resolution by the Morro Bay City Council, to all Mayors and City Councils, County Boards of Supervisors, School Boards, and State and Federal legislators in San Luis Obispo, Monterey and Santa Barbara Counties, the Governor of California, and the San Luis Obispo Council of Governments urging support for a National Revenue Neutral Fee and Dividend Act and urging them to adopt a resolution in favor of National Revenue-Neutral National Carbon Fee and Dividend legislation.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 28th day of June, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPENDIX A
To the City of Morro Bay Resolution in Favor of
National Revenue-Neutral Carbon Fee and Dividend Legislation

Findings:

1. Causation: there is a consensus^{1, 2} among climate scientists, domestic and international science bodies such as the National Academy of Sciences and the International Panel on Climate Change and the World Meteorological Organization (IPCC, WMO), that greenhouse gas emissions from human activities such as the burning of fossil fuels are driving the current rise in global temperatures and climate change,³
2. Mitigation (Return to 350 ppm or below): the weight of scientific evidence also indicates that a return from the current concentration of more than 400 parts per million ("ppm") of carbon dioxide ("CO₂") in the atmosphere to 350 ppm CO₂ or less is necessary to slow or stop the rise in global temperatures,⁴
3. Endangerment: further increases in global temperatures pose imminent and substantial dangers to human health⁵, the natural environment⁶, the economy⁷, national security⁸, and an unacceptable risk of medium and long-term future harm⁹,
 - a. Climate change caused by global warming-related greenhouse gas emissions including CO₂ already is leading to large-scale problems including increasing acidity of oceans and rising sea levels; more frequent, extreme, and damaging weather events such as heat waves, storms, heavy rainfall and flooding, and droughts; more frequent and intense wildfires; disrupted ecosystems affecting biodiversity and food production; and an increase in heat-related deaths¹⁰; and
 - b. We are approaching a dangerous threshold whereby, if it is crossed, humans will no longer be able to influence the course of future global warming, as tropical forests, peat bogs, permafrost and the oceans¹¹ switch from absorbing carbon to releasing it; and
4. Local effects on agriculture: the following effects of climate change are likely to occur if we do not reduce our CO₂ emissions to 350 ppm by 2050:
 - a. Bay Area and Central Coast temperatures are predicted to rise significantly. The number of days over 95° is expected to increase from an average of 12 per year today to 20-29 by 2050 and 32-65 by 2100,¹²
 - b. Given increased heat waves, droughts and higher temperatures¹³, California farmers will face an increasingly uncertain future, where current crops may fail and water may be even more scarce,^{14, 15, 16}
 - c. If heat-trapping emissions continue to rise at today's levels the snowpack in the Sierra Nevada is likely to decline as much as 40% from historical levels by 2050 and as much as 90% by 2100, thus severely reducing the availability of water in summer. However if we make significant emissions reductions the decline by 2050 could be as little as 12%.¹⁷
 - d. Two thirds of California's 2,400 endemic plants could lose more than 80% of their current ranges if climate change worsens,¹⁸
 - e. The number of chilling hours at the end of this century is expected to be half or less than during the 20th century such that many currently lucrative crops will no longer be commercially viable in large areas of California,^{19, 20, 21}

- f. We can expect a range expansion and rapid increase in populations of insects already present and the arrival of new insect pests to newly warmer regions amid ecosystem changes thus negatively affecting agriculture and health,^{22, 23}
5. The present costs of fossil fuels are externalized: Presently the environmental, health, and social costs of CO2 emissions are not included in prices paid for fossil fuels, but rather these externalized costs are borne directly and indirectly by all Americans and global citizens; and
6. Co-Benefits: the measures proposed in this legislation will benefit the economy, human health, the environment, and national security, even without consideration of global temperatures, by correcting market distortions, reducing non-greenhouse-gas pollutants, reducing the outflow of dollars to oil-producing countries, and improving energy security of the United States,²⁴
7. Benefits of Carbon Fees: phased-in carbon fees on greenhouse gas emissions are (1) the most efficient, transparent, and enforceable mechanism to drive an effective and fair transition to a domestic-energy economy, (2) will stimulate investment in alternative-energy technologies, and (3) will give all businesses powerful incentives to increase their energy-efficiency and reduce their carbon footprints in order to remain competitive,²⁵
8. Equal Monthly Per-Person Dividends: monthly dividends (or “rebates”) from carbon fees paid equally to every American household will stimulate the American economy and help ensure that families and individuals can afford greenhouse gas-free energy,

Therefore the National Revenue Fee and Dividend Act²⁶ contains the following elements:

1. Collection of Carbon Fees/Carbon Fee Trust Fund: The Act would impose a carbon fee on all fossil fuels and other greenhouse gases at the point where they first enter the economy. The fee shall be collected by the Treasury Department. The fee on that date shall be \$15 per ton of CO2 equivalent emissions and result in equal charges for each ton of CO2 equivalent emissions potential in each type of fuel or greenhouse gas. The Department of Energy shall propose and promulgate regulations setting forth CO2 equivalent fees for other greenhouse gases including at a minimum methane²⁷, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons (HFCs), perfluorocarbons, and nitrogen trifluoride. The Treasury shall also collect the fees imposed upon the other greenhouse gases. All fees are to be placed in the Carbon Fees Trust Fund and be rebated 100% to American households as outlined below.
2. Emissions Reduction Targets: To align US emissions with the physical constraints identified by the Intergovernmental Panel on Climate Change (IPCC) to avoid irreversible climate change, the yearly increase in carbon fees including other greenhouse gases, shall be at least \$10 per ton of CO2 equivalent each year. Annually, the Department of Energy shall determine whether an increase larger than \$10 per ton per year is needed to achieve program goals. Yearly price increases of at least \$10 per year shall continue until total U.S. CO2-equivalent emissions have been reduced to 10% of U.S. CO2-equivalent emissions in 1990.
3. Equal Per-Person Monthly Dividend Payments: Equal monthly per-person dividend payments shall be made to all American households (½ payment per child under 18 years old, with a limit of 2 children per family) each month. The total value of all monthly dividend payments shall represent 100% of the total carbon fees collected per month.
4. Border Adjustments: In order to ensure that U.S.-made goods can remain competitive at home and abroad and to provide an additional incentive for international adoptions of carbon fees, Carbon-Fee Equivalent Tariffs shall be charged for goods entering the U.S. from countries without comparable Carbon Fees/Carbon Pricing. Carbon-Fee-Equivalent Rebates shall be used to reduce the price of exports to such countries and to ensure that U.S. goods can remain

competitive in those countries. The Department of Commerce will determine rebate amounts and exemptions if any.

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- ¹ Anderegg, William R. L. et al. “Expert Credibility in Climate Change.” *Proceedings of the National Academy of Sciences* 107.27 (2010): 12107–12109. www.pnas.org.
- ² Doran, Peter T., and Maggie Kendall Zimmerman. “Examining the Scientific Consensus on Climate Change.” *Eos, Transactions American Geophysical Union* 90.3 (2009): 22. *CrossRef*.
- ³ *IPCC, 2013: Summary for Policymakers*. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA: Intergovernmental Panel on Climate Change, 2013. Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change.
- ⁴ Hansen, J. et al. “Target Atmospheric CO₂: Where Should Humanity Aim?” *The Open Atmospheric Science Journal* 2.1 (2008): 217–231. arXiv.org.
- ⁵ McMichael, Anthony J, Rosalie E Woodruff, and Simon Hales. “Climate Change and Human Health: Present and Future Risks.” *The Lancet* 367.9513 (2006): 859–869. *CrossRef*.
- ⁶ Hughes, I. “Biological Consequences of Global Warming: Is the Signal Already Apparent?” *Trends in Ecology & Evolution* 15.2 (2000): 56–61.
- ⁷ Nordhaus, William D. “A Review of the ‘Stern Review on the Economics of Climate Change.’” *Journal of Economic Literature* 45.3 (2007): 686–702
- ⁸ Hagel, Chuck. *Department of Defense: 2014 Climate Change Adaptation Roadmap*. Alexandria, VA: Office of the Deputy Under Secretary of Defense for Installations and Environment, 2014.
- ⁹ Borgerson, Scott G. “Arctic Meltdown.” *Foreign Affairs* Apr. 2008. *Foreign Affairs*.
- ¹⁰ *IPCC, 2013: Summary for Policymakers*.
- ¹¹ Archer, David, Bruce Buffett, and Victor Brovkin. “Ocean Methane Hydrates as a Slow Tipping Point in the Global Carbon Cycle.” *Proceedings of the National Academy of Sciences* 106.49 (2009): 20596–20601. www.pnas.org.
- ¹² From Boom to Bust? Climate Risk in the Golden State, Risky Business Project, March 20, 2015, <http://www.georgetownclimate.org/resources/from-boom-to-bust-climate-risk-in-the-golden-state>
- ¹³ Moser, Susanne, Julia Ekstrom, and Guido Franco. *Our Changing Climate 2012 - Vulnerability & Adaptation to the Increasing Risks from Climate Change in California - A Summary Report on the Third Assessment*. California Climate Change Center, 2012.

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- ¹⁴ Gleick, Peter H. *Water -- the Potential Consequences of Climate Variability and Change for the Water Resources of the United States*. Pacific Institute for Studies in Development, Environment, and Security, 2000. agris.fao.org.
- ¹⁵ Joyce, B. et al. *Climate Change Impacts on Water Supply and Agricultural Water Management in California's Western San Joaquin Valley, and Potential Adaptation Strategies*. California Climate Change Center, 2009.
- ¹⁶ Purkey, D. R. et al. "Robust Analysis of Future Climate Change Impacts on Water for Agriculture and Other Sectors: A Case Study in the Sacramento Valley." *Climatic Change* 87.1 (2007): 109–122. link.springer.com.
- ¹⁷ Cayan, Dan et al. *Climate Change Scenarios and Sea Level Rise Estimates for the California 2009 Climate Change Scenarios Assessment*. California Climate Change Center, 2009.
- ¹⁸ Meadows, Robin. "UC Scientists Help California Prepare for Climate Change" in California Agriculture." *California Agriculture* 63.2 (2009): 56–58.
- ¹⁹ Weare, Bryan C. "How Will Changes in Global Climate Influence California?" *California Agriculture* 63.2 (2009): 59–66.
- ²⁰ Baldocchi, Dennis, and Simon Wong. "Accumulated Winter Chill Is Decreasing in the Fruit Growing Regions of California." *Climatic Change* 87.1 (2007): 153–166. link.springer.com.
- ²¹ Luedeling, Eike, Minghua Zhang, and Evan H. Girvetz. "Climatic Changes Lead to Declining Winter Chill for Fruit and Nut Trees in California during 1950–2099." *PLoS ONE* 4.7 (2009): e6166. *PLoS Journals*.
- ²² Trumble, John T., and Casey D. Butler. "Climate Change Will Exacerbate California's Insect Pest Problems." *California Agriculture* 63.2 (2009): 73–78.
- ²³ Bale, Jeffery S. et al. "Herbivory in Global Climate Change Research: Direct Effects of Rising Temperature on Insect Herbivores." *Global Change Biology* 8.1 (2002): 1–16. *Wiley Online Library*.
- ²⁴ Nystrom, Scott, and Patrick Luckow. *The Economic, Climate, Fiscal, Power, and Demographic Impact of a National Fee-and-Dividend Carbon Tax*. Regional Economic Models, Inc. (REMI) and Synapse Energy Economics, Inc., 2014.
- ²⁵ Nystrom, Scott, and Patrick Luckow (REMI study)
- ²⁶ "Carbon Fee and Dividend." *Citizens' Climate Lobby*. N.p., n.d. <https://citizensclimatelobby.org/carbon-fee-and-dividend/>. 12 Apr. 2015.

²⁷ Methane is a much more potent greenhouse gas than CO₂ with both direct and indirect effects contributing to warming. It is therefore important to place a fee on methane that leaks to the atmosphere. Some of this leakage will occur after the fee has been assessed on methane under the assumption that it will be burned to yield the less potent CO₂. To ensure the integrity of the program and that markets receive accurate information with regard to the climate forcings caused by various fossil fuels, the carbon fee shall be assessed on such leaked methane at a rate commensurate with the global warming potential (“GWP”) of methane including both its direct and indirect effects. Given the importance of tipping points in the climate system, the 20-year GWP of methane shall be used to assess the fee, and not the 100-year GWP. As proper accounting for such leakage is necessary for honest assessment of progress towards program goals, reasonable steps to assess the rate of methane leakage shall be implemented, and leaked methane shall be priced accordingly. The entity responsible for the leaked methane shall be responsible for paying the fee.



AGENDA NO: A-6

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 31, 2016

FROM: Bruce Keogh, Wastewater Treatment Plant Manger
Richard Sauerwein, PE, Capital Projects Manager

SUBJECT: Authorization to file the Notice of Completion for Project No. MB2016-WW06,
MMRP: Blending Valves Replacement

RECOMMENDATION

Staff recommends the City Council authorize staff to file the Notice of Completion of the MMRP: Blending Valves Replacement Project.

ALTERNATIVES

None

FISCAL IMPACT

The Project is fully funded from the projects contained within the FY 15/16 WWTP budget that was adopted by both the City and District. Pacific Coast Excavation, Inc. (PCE, Inc.) was the lowest responsive bidder at \$90,238. Pacific Coast Excavation completed the project for a total of \$89,808, including three Contract Change Orders, discussed below.

SUMMARY

City and District staff, in coordination with Michael Nunley & Associates (MKN), finalized and publicly noticed an Invitation to Bid for the replacement of four valves on September 20 and 27, 2015; bids were due by October 6, 2015. PCE, Inc. was the lowest responsive bidder at \$90,238 and was given the Notice to Proceed on April 18, 2016. The Project was completed on April 29, 2016, and Notice of Substantial Completion was delivered to PCE on May 26, 2016.

Contract Change Order #1 was directed during the installation of 18" valve. PCE, Inc. determined the flange bolt holes were not aligned across the valve, therefore the newly fabricated pipe would not bolt to the existing flanged pattern. In order to successfully complete this phase of work, City staff issued a change directive to fabricate a new pipe in the field and authorized overtime for work on the weekend. Contract Change Order #1 is \$7,965.17

Prepared By: BK

Dept Review: RL

City Manager Review: DWB

City Attorney Review: JWP

Contract Change Order #2 was directed for miscellaneous materials requested by the City. Incidental materials included utilizing concrete-slurry as backfill, rather than native soil, to minimize settlement of the disturbed soils, and for additional grouting on an existing cement coated pipe fitting discovered during the excavation of a valve, and finally, additional asphalt placement in and around the work area. Contract Change Order #2 is \$3,395.27

Contract Change Order #3 is a credit owed on two line items of work. During the submittal process, City staff, in conjunction with the contractor, agreed to keep the original pipe size rather than install a larger, non-common, pipe diameter and fittings. This resulted in a net savings in pipe and valve costs.

The second credit is for a City initiated line item elimination, as allowed by the Public Contract Code. The City decided to eliminate the 24-inch Blending Valve replacement. Therefore, a credit is issued to the City for the difference between the material costs of the 24" valve plus all appurtenances and the bid price. The total credit owed is (\$11,790.19).

The three contract changes resulted in a net credit of (\$429.75)

CONCLUSION

Filing of a Notice of Completion is a routine task for public works projects. PCE, Inc. has completed the Project and staff recommends the City of Morro Bay and Cayucos Sanitary District accept the Project and authorize the filing of a Notice of Completion.

ATTACHMENT

Notice of Completion

Recording requested by:
City of Morro Bay
Public Works Department

When recorded mail to:
City of Morro Bay – City Engineer
595 Harbor Street
Morro Bay, Ca. 93442-1957
September 18, 2015

RECORDING FEES EXEMPTED
G.C. §6103 & 27383

**NOTICE OF COMPLETION
CITY OF MORRO BAY**

NOTICE IS HEREBY GIVEN:

1. The City of Morro Bay, a municipal corporation and the Cayucos Sanitation District, a public corporation, are the joint-owners of a certain public improvement known as the Waste Water Treatment Plant, Blending Valves Replacement Project # 2016-WW06.
2. The City is responsible for operation and maintenance of said facility and its address is, 595 Harbor Street, Morro Bay, County of San Luis Obispo, California, 93442.
3. The general location of said public improvement is 160 Atascadero Road, Morro Bay, CA 93442.
4. On October 22, 2015, the Morro Bay City Council and on October 15, 2015, the Cayucos District Board approved the contract award to Pacific Coast Excavation, Inc. (PCE), 316 North Pine Street, Santa Maria, CA 93458.
5. Work under that contract was completed on April 29, 2016, to the satisfaction of the City's Public Works Director, and the City and CSD hereby accept the project as complete.

I, the undersigned, declare under penalty of perjury under the laws of the State of California: I have read the above notice, I know and understand the contents thereof, and the facts stated therein are true and correct.

Executed at Morro Bay, California, this _____ day of _____, 2016.

Robert Livick, Public Works Director
City of Morro Bay, California



AGENDA NO: A-7

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: June 16, 2016

FROM: Joseph W. Pannone, City Attorney

SUBJECT: Approval of License Agreement for 570 Dunes Street

RECOMMENDATION

Staff recommends Council approve the License Agreement for 570 Dunes Street with Jennifer Little.

FISCAL IMPACT

The City will receive \$1,300 in rental revenue per month.

BACKGROUND/DISCUSSION

The City owns a home at 570 Dunes Street, Morro Bay. The City purchased that home for the property to be included in a possible civic center project and it is very close to City Hall. In the interim, allowing the home to be occupied provides some income to the City and assists with maintaining and securing that property. The City has hired Jennifer Little as Tourism Manager. As part of her duties, she may be required to be available to the City upon short notice. Due to the above fact, the City desires to provide her with occupancy of the Property, subject of the terms of the License Agreement.

CONCLUSION

Staff recommends Council approve the License Agreement for 570 Dunes Street with Jennifer Little.

ATTACHMENT

License Agreement for 570 Dunes Street

01181.0001/300921.1

Prepared By: BRA

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

LICENSE AGREEMENT

This License Agreement is made and entered into by and between the City of Morro Bay, a municipal corporation (the "City") and Jennifer Little, an individual ("Little"). The City and Little are herein sometimes referred to as the "Parties."

RECITALS

A. The City is a municipal corporation which provides municipal services to its community. The City is not in the business of purchasing, selling, leasing or otherwise acquiring or disposing of real property for commercial or profit oriented purposes.

B. The City is the owner of certain real property commonly referred to as 570 Dunes Street, Morro Bay, CA (the "Property"). The Property was acquired by the City for the purpose of constructing a civic center.

C. The City has hired Little as the City's Tourism Manager. As part of her duties, Little may, from time to time, be required to perform emergency, supervisory or late night services and to be available to the City upon short notice, all for the benefit of the public welfare. To effectuate that benefit, the City desires to provide Little with occupancy of the Property, subject to the terms of this License Agreement.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements contained herein, the Parties hereto agree as follows:

1. Use of Premises. The City grants to Little a license to occupy the Property for residential purposes, subject to the terms of this License Agreement.

2. License Fee. Little shall pay the City \$1,300.00 per month for the license to occupy the Property (the "License Fee"). The License Fee shall be due on July 1, 2016, and the first day of each month thereafter during the term of this License Agreement.

3. Term. The term of this License Agreement shall be deemed to have commenced as of June 17, 2016, and shall continue in effect, until terminated in accordance with Section 4., below. Little agrees to reside at the Property throughout the term of this License Agreement, and to maintain and to keep the City informed at all time as to the telephone number assigned to the Property, so as to be available to the City for the performance of duties.

4. Termination. The License Agreement may be terminated as follows:

A. If Little leaves the employ of the City, whether voluntarily or involuntarily, then this License Agreement shall terminate 30 days after the last day of Little's active employment with the City (*i.e.*, exclusive of accrued vacation or other leave time).

B. The City or Little may terminate this License Agreement upon 30-days' written notice.

5. Property Use. The Property shall be used only as a residence for 2 adults (including Little) and 1 child and shall not keep or permit to be kept at the Property more than one pet (dog, cat, bird or other animal). Little shall not permit the Property or any part thereof to be used for: (i) the conduct of any offensive, noisy, or dangerous activity which would increase the premiums for fire or liability insurance on the Property, (ii) the creation or maintenance of a private or public nuisance, (iii) anything which is against public regulations or rules of any public authority at any time applicable to the Property or (iv) any purpose or in any manner, which will obstruct, interfere with, or infringe upon the rights of the residents of adjoining properties, including, but not limited to, the adjoining residents' rights to quiet enjoyment.

6. Utilities. Little shall be solely responsible for all charges incurred for water, electricity, natural gas, garbage collection, telephone, cable television and all other public utility services provided to the Property. Little shall pay such charges promptly as they become due.

7. Security Systems; Telephone Lines. Little agrees to pay all costs incurred, if any, in the installation, maintenance, or repair of telephone lines, and any and all needed devices for security systems to be provided to the Property.

8. Little's Maintenance and Security Obligations. As consideration for this License Agreement, Little shall fulfill the following obligations.

A. Security. Little understands and agrees one purpose of the City in entering into this License Agreement is to provide an occupant for the Property so as to increase the level of security the Property enjoys. Little's occupancy shall therefore be subject to the reasonable satisfaction of the City Council such security is being provided.

B. Landscape Maintenance. Little shall be responsible for usual and normal landscape maintenance of the Property, including, by way of example only, proper cultivation and care for and adequate watering of all lawns, shrubbery, trees and grounds on the Property, including the right-of-way adjacent to Palos Verdes Drive West (the "Normal Landscape Maintenance"). The Normal Landscape Maintenance shall be subject to the limitation Little shall use the minimum amount of water necessary to maintain the landscaping, in order to preclude percolation into the ground of excessive irrigation water.

C. Building Maintenance. Little shall be responsible for the usual and normal maintenance of buildings on the Property, including, by way of example only cleaning of the premises including washing of windows, and minor repairs or improvements, such as patching of plaster and interior painting or repair of heating or cooling systems. Major repairs to the Property, including, by way of example only, replacement of the roof or of the furnace, shall remain the responsibility of the City.

D. Condition upon termination of this License Agreement. Upon the termination of this License Agreement, Little shall surrender the Property to the CITY in as good condition as when received, ordinary wear and damage by the elements excepted.

9. Indemnity. Little agrees to indemnify, defend and hold harmless the City and each of its officers and employees against any and all damages or claims of damage to Little, members of Little's family occupying the Property, Little's guests, invitees, trespassers, or any other persons as a result, whether as a sole or concurrent cause, of this License Agreement, excluding only damages or claims of damages resulting from the sole or active negligence of the City or any of its officers or employees. Nothing in this Section shall be deemed to authorize the occupancy of the Property by any person other than Little and her immediate family members.

10. Insurance. Little shall at all times during the term of this License Agreement, and at Little's own cost and expense, procure and continue in force personal property and personal liability protection insurance. The insurance procured by Little shall have a single combined liability limit of not less than One Hundred Thousand Dollars (\$100,000.00) and shall insure against all liability of Little arising out of or in connection with Little's use and occupancy of the Property. Little shall furnish the City with a Certificate of Insurance, approved by the City, and no policy shall be cancelable or subject to reduction of coverage or other modification except after 30-days' prior written notice to the City.

11. Alterations. Little shall make no alteration to any building on the Property, nor construct any building or other improvement on the Property without first having obtained the written consent of the City.

12. Assignment and Subletting. The License is not assignable, nor shall Little rent or sublet the Property or any interest therein. Any attempt at assignment of this License Agreement or letting of the Property without the prior written consent of the City, or any assignment of the License or letting of the Property by operation of law, shall be void and shall, at the option of the City, result in termination of this License Agreement.

13. Income Tax Implications. Little acknowledges and agrees she shall be solely responsible for the personal income tax consequences, if any, arising from this License Agreement or her occupancy of the Property or any part thereof.

14. Real Property Interest and Property Tax Implications. The Parties do not intend for this License Agreement to convey to Little any real property interest in the Property. Also, if any possessory interest or other taxes are assessed as a result of this License Agreement, then Little shall be solely responsible for timely payment of those taxes. Little shall defend, indemnify and hold harmless the City from any and all such taxes, penalties and interest that may be assessed due to this License Agreement. If the City receives notice such taxes are due, then the City shall, forthwith, forward that notice to Little.

15. Notices. Any and all notices or other communication required or permitted by this License Agreement to be served on or given to a Party to this License Agreement by the other Party to this License Agreement shall be in writing and shall be deemed duly served and given when personally delivered to the Party to whom it is directed, or, in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed as follows:

If to Little: Jennifer Little
570 Dunes Street
Morro Bay, CA 93442

If to the City: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442
Attn: City Manger

Either Party may change the address for notice by giving written notice of such change to the other Party in the manner provided for in this section.

16. Binding Effects; Amendments. Subject to the provisions of this License Agreement against assignment of this License Agreement, all provisions of this License Agreement shall extend to and bind, or inure to the benefit not only of the Parties hereto, but to each and every one of the heirs, executors, representatives, successors, and assigns of the City and Little and may be altered, amended, or changed only by an instrument in writing signed by the Parties hereto.

“LITTLE”

Jennifer Little

“CITY”

Jamie Irons, Mayor

ATTEST:

Dana Swanson, City Clerk

APPROVED:

Joseph W. Pannone, City Attorney



AGENDA NO: A-8

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 20, 2016
FROM: Susan Slayton, Administrative Services Director
SUBJECT: Adoption of Resolution No. 55-16 Establishing the Compensation and Benefits for Unrepresented Confidential Employees of the City of Morro Bay

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 55-16, establishing compensation and benefits for the City's unrepresented confidential designated employees for the FY 2016/17.

FISCAL IMPACT

Total cost to the City is approximately \$10,050, with \$7,450 in salaries and benefits plus \$2,600 reserved for unfunded compensable liabilities. This amount is already included in the current FY 2016/17 budget.

BACKGROUND

Section 36506 of the California Government Code requires that a city council fix the compensation of all appointive officers and employees by resolution or ordinance. The City's unrepresented Confidential Employees' compensation and benefits are reviewed on an annual basis, along with the compensation and benefits of all City employees. In past years, the City has had various "agreements" with the unrepresented Confidential Employees, but has never formally or informally recognized them as a bargaining group, which made such agreements inappropriate under the circumstances of an unrepresented grouping of employees. Accordingly, the City seeks to correct to both comply with the mandates of Section 36506 and properly document the change in compensation and benefits for the Confidential Employees as reflected in Resolution No. 55-16. This Resolution would remain in effect until further subsequent action is taken by City Council.

DISCUSSION

The City Council has established the FY 2016/17 Cost of Living Adjustment (COLA) for Confidential Employees shall be a 2.25% increase in base compensation. The cost of this base compensation increase is approximately \$10,050, with \$7,450 in salary and benefits, and \$2,600 (1% of total Confidential Employee salaries) reserved for unfunded compensable liabilities, the cost of which is already included in the adopted FY 2016/17 Budget.

Prepared By: SS

Dept Review: _____

City Manager Review: _____

City Attorney Review: CJT

RESOLUTION NO. 55-16

**RESOLUTION ESTABLISHING THE COMPENSATION
AND BENEFITS FOR THE UNREPRESENTED CONFIDENTIAL DESIGNATED
EMPLOYEES OF THE CITY OF MORRO BAY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, Section 36506 of the California Government Code requires that a city council fix the compensation of all appointive officers and employees by resolution or ordinance; and

WHEREAS, Morro Bay Municipal Code Section 2.20.020 also provides that the salaries and compensation of officers and employees of the City of Morro Bay (“City”) shall be as fixed and determined by resolution of the City Council, except as specifically fixed in Chapter 2.20 of the Morro Bay Municipal Code; and

WHEREAS, the City has established a system of classification for all positions within the City service with descriptive occupational titles, used to identify and distinguish classifications and/or positions from one another, based on job duties, essential functions, knowledge, skills, abilities and minimum requirements; and

WHEREAS, the Meyers-Milias-Brown Act (“MMBA”) (Government Code Secs. 3500 et.seq.) governs labor relations between local government employers and employees and Section 3507.5 thereof permits a public agency to adopt local rules and regulations providing for the designation of the “confidential” employees of the public agency and restricting such employees from representing any employee organization, which represents other employees of the public agency, on matters within the scope of representation; and

WHEREAS, the City’s Employer-Employee Relations Resolution, Resolution No. 74-69, represents the City’s adoption of local rules and regulations for the administration of employer-employee relations, including but not limited to the designation of “confidential” employees, defined as meaning those employees who are “privy to decisions of City management affecting employer-employee relations;” and

WHEREAS, the City has designated such “confidential” employees as more fully identified and listed herein below; and

WHEREAS, the “confidential” employees identified and listed herein are “unrepresented,” meaning that they are not part of any City Council determined appropriate bargaining unit nor represented by any recognized employee organization as defined by the City’s Employer-Employee Relations Resolution and the MMBA; and

WHEREAS, the City Council deems it is in the best interest of the City to adjust the compensation of the unrepresented confidential employees, whose titles are listed herein, by a Cost of Living Adjustment (COLA) established by City Council for these employees for FY 2016/17; and

NOW, THEREFORE, BE IT RESOLVED that the Morro Bay City Council does hereby adopt the following Resolution, establishing compensation and benefits for the City of Morro Bay's unrepresented confidential employees and rescinding and replacing any prior compensation and benefits resolutions, contracts, agreements or memorandum for such employees, including but not limited to Resolution No. 66-14, Resolution No. 56-13, Resolution No. 42-12, Resolution No. 56-11, Resolution No. 73-08, Resolution No. 16-07, and Resolution No. 54-02:

A. POSITION LIST

The following are the FY 2016/17 authorized confidential positions:

1. Human Resources Analyst
2. Senior Accounting Technician
3. Support Services Coordinator
4. Legal Assistant/Deputy City Clerk

B. NORMAL WORK HOURS

Confidential employees work eight (8) hours per day, five (5) days per week consistent with City business hours (unless participating in an alternative work schedule), and are subject to overtime compensation.

C. COMPENSATORY TIME OFF ("CTO")

Confidential employees may take CTO in-lieu of paid overtime. CTO may be accrued up to a maximum of sixty (60) hours. Once the maximum accrual is reached, excess overtime is paid at the time it is incurred, until the CTO accrual balance falls below the maximum. CTO must be approved in advance by the employee's Department Director.

D. ADMINISTRATIVE LEAVE

Confidential employees receive forty-five (45) hours annually in paid administrative leave in a lump sum accrual at the beginning of each fiscal year.

With each fiscal year end, up to twenty-four (24) hours of unused administrative leave from the prior fiscal year may be carried over to the next fiscal year by written request of the employee. The administrative leave bank may never accrue more than sixty-nine (69) total hours (45 + 24).

New confidential employees will be provided a pro-rata share of the annual forty-five (45) hour administrative leave upon employment.

Administrative leave is a compensable leave, and any remaining hours in the employee's bank will be paid out upon separation from City service, at the employee's current hourly rate of pay.

E. VACATION LEAVE

Confidential employees accrue vacation, based on the schedule below:

<u>Service Years</u>	<u>Entitlement in Days</u>
1 thru 2	10
3 thru 4	11
5 thru 6	12
7 thru 8	13
9 thru 10	14
11 thru 12	15
13 thru 14	16
15 thru 16	17
17 thru 18	18
19 thru 20	19
21 or more	20

Confidential employees are subject to a maximum leave accumulation of two hundred twenty (220) hours. Any hours exceeding the maximum accumulation as of November 1st of each year will be paid out in the pay period including December 1st, based on the following options for those excess hours, as selected by the employee:

1. Cash out;
2. Convert hours to sick leave on an hour-for hour basis;
3. Paid to deferred compensation account; or
4. Any combination of the above.

Confidential employees may exercise the option to convert into cash a maximum of forty (40) hours of accrued vacation leave each fiscal year, at the employee's current hourly rate of pay.

Vacation accrual is a compensable leave; any hours remaining in the employee's vacation bank will be paid out upon separation from City service, at the employee's current hourly rate of pay.

F. HOLIDAYS

The following days are paid holidays for confidential employees:

Independence Day	July 4 th
Labor Day	1 st Monday in September
Veteran's Day	November 11 th

Thanksgiving Day	4 th Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25 th
New Year's Day	January 1 st
Martin Luther King, Jr. Day	3 rd Monday in January
Lincoln's Birthday	February 12 th
Washington's Birthday	3 rd Monday in February
Memorial Day	Last Monday in May
Floating Holiday	Varies
Floating Holiday	Varies

Any holiday, which falls on a Saturday or Sunday, will be officially designated as a "HOLIDAY" on the prior Friday (if Saturday) or Monday (if Sunday).

For confidential employees, one holiday equals eight (8) hours unless the employee is working the 9/80 alternative work schedule where one holiday may equal eight (8) or nine (9) hours depending on the normally scheduled work day being either an eight (8) or nine (9) hour work day for that employee.

When a holiday is proclaimed by the Mayor of the City, each employee shall be granted time-off in the same number of equivalent hours. Such time off shall be authorized by the Department Head.

Floating holiday hours are recorded in a bank in July of each fiscal year, and may be carried over to the next fiscal year, to a maximum accumulation of forty-eight (48) hours holiday time. Hours of holiday time accumulated over forty-eight (48) hours will be paid out in December.

Floating holiday pay is a compensable leave, and any remaining hours in the employee's bank will be paid out upon separation from City service, at the employee's current hourly rate of pay.

G. SICK LEAVE

All employees accrue ninety-six (96) hours per year in a sick leave bank to be used for employee illness, forty-eight (48) hours of which may be used in the care of the employee's family member for illness or for any other reason mandated by law.

Upon retirement from City service, remaining unused sick leave converts to time served under the applicable contract between the City and the California Public Employees' Retirement System ("CalPERS"), if any.

Based on individual utilization of paid sick leave in the preceding calendar year, confidential employees may convert unused accumulated sick leave into paid vacation leave once per calendar year, pursuant to the formula below:

<u>Sick Leave Utilization</u>	<u>Sick Leave</u>	<u>Maximum Conversion to Vacation Leave</u>
0 hours	96 hours	48 hours
.25 to 8 hours	72 hours	36 hours
8.25 to 16 hours	48 hours	24 hours
16.25 to 25 hours	24 hours	12 hours
Over 25 hours	0 hours	0 hours

At least one hundred sixty (160) accrued hours must remain in the confidential employee's sick leave bank for an employee to be eligible for conversion or for a conversion to be authorized. In addition, the right to convert does not carry over or rollover from calendar year to calendar year; failure to request conversion in any calendar year eliminates the right to do so for that calendar year.

Upon the Service Retirement of a confidential employee, who has more than ten (10) years of service with the City, said employee shall be entitled to receive payment for up to the first ninety (90) days of his/her accrued sick leave at twenty-five percent (25%) of the employee's rate of pay, as of the date of service retirement. Unused sick leave converted to service credit for CalPERS purposes cannot be compensated (converted to dollars). Service Retirement is defined as service retirement from both the City and CalPERS. Voluntary separation or termination actions are excluded from this benefit.

H. RETIREMENT BENEFITS

All employees, enrolled in the CalPERS retirement system, bear the risk of payment of any increases in the employee contribution, above the current percentage, made by action of CalPERS, the California Public Employees Pension Reform Act of 2013 ("PEPRA") or related legislation, and/or the State Legislature.

All employee CalPERS contributions are paid to CalPERS, based upon tax treatment currently permitted by the State Franchise Tax Board and the Internal Revenue Service ("IRS").

The following is descriptive information on City CalPERS-contracted Miscellaneous retirement plans:

CalPERS Miscellaneous Plans

All employees pay 100% of the employee contribution to CalPERS, which is currently:

1. Tier 1 Classic members = 8%
2. Tier 2 Classic members = 7%

3. Tier 3 PEPRA members = 6.25%

Tier 1: All employees, who were hired prior to December 10, 2011, receive the following CalPERS retirement formula and optional benefits (existing Tier 1 employees, promoted to another position within the City, will not be considered new hires, with respect to retirement formulas):

1. 2.7% @ 55 formula (Section 21354.5)
2. Unused Sick Leave Credit (Section 20965)
3. Military Service Credit (Section 21024 & 21027)
4. Final Compensation 1 Year (Section 20042)
5. 1959 Survivor Benefit, Level 4 (Section 21574)
6. Pre-Retirement Option 2W Death Benefit (Section 21548)

Tier 2: All employees, who were hired on or after December 10, 2011, but before January 1, 2013, and those hired on or after January 1, 2013, who meet the CalPERS definition of *classic member* as determined by CalPERS under PEPRA and related legislation receive the following CalPERS retirement formula and optional benefits:

1. 2% @ 60 formula (benefit factor increases to 2.418% @ 63+) (Section 21353)
2. Unused Sick Leave Credit (Section 20965)
3. Military Service Credit (Section 21024 & 21027)
4. Final Compensation 3 Years (Section 20037)
5. 1959 Survivor Benefit, Level 4 (Section 21574)
6. Pre-Retirement Option 2W Death Benefit (Section 21548)

Tier 3: All employees, who were hired on or after January 1, 2013, and meet the definition of *new member*, as determined by CalPERS under PEPRA and related legislation pursuant to PEPRA, receive the following CalPERS retirement formula and optional benefits:

1. 2% @ 62 formula (benefit factor increases to 2.5% @ 67+) (Section 7522.20)
2. Final Compensation 3 Years (Section 20037)
3. Member contribution rate of fifty (50) percent of the expected normal cost rate, which is currently 12.5% (6.25% is employee's portion)
4. Unused Sick Leave Credit (Section 20965)
5. Military Service Credit (Section 21024 and 21027)
6. 1959 Survivor Benefit, Level 4 (21574)
7. Pre-Retirement Option 2W Death Benefit (Section 21548)

I. HEALTH/LIFE/VISION/DENTAL INSURANCE

Effective January 1, 2016, all employees receive the following contribution toward the purchase of CalPERS health insurance, which includes the required CalPERS monthly contribution:

Employee only - up to \$715/month or cost of insurance, whichever is less

Employee + 1 – up to \$1,109/month or cost of insurance, whichever is less

Employee + family - up to \$1,326/month or cost of insurance, whichever is less

Life insurance is provided at \$50,000, and is paid for by the City for the employee only.

Effective January 1, 2016, all employees receive the following bank contribution toward the purchase of Life, Vision and Dental insurances:

	<u>Life</u>	<u>Vision</u>	<u>Dental</u>	<u>Total</u>	<u>Bank</u>	<u>EE Pays</u>
Employee only	\$7.50	\$ 8.86	\$ 55.47	\$ 71.83	\$ 68.90	\$ 2.93
Employee + 1	\$7.50	\$ 16.59	\$143.09	\$167.18	\$155.43	\$11.75
Employee + 2+	\$7.50	\$ 22.59	\$143.09	\$173.18	\$160.97	\$12.21

City will pay the remaining premium for life, vision and dental.

For retired employees, City contributes the required CalPERS monthly contribution towards CalPERS health plans, as selected by retiree.

J. DEFERRED COMPENSATION PROGRAM

Confidential employees receive a matching contribution up to \$1,500, per calendar year, paid to employee's deferred compensation plan, or approved retiree medical savings plan. City matching contributions are paid on a 2:1 basis (e.g., employee contributes \$2, City matches \$1).

K. EDUCATION INCENTIVE

City will reimburse its confidential employees for costs associated with job-related and job-required certifications, correspondence courses, and/or licenses (except Class III driver's license), upon successful completion of the examination or course by the employee. Written authorization, from the employee's Department Director, is required in advance. Reimbursement includes application fees, examination fees, and certificate fees. Renewal fees may be paid in advance by City. This provision does not apply to continuing education requirements.

City will provide a City vehicle, when available, for required transportation, and will permit paid time for employee to take examinations, scheduled during normal working hours. If no City vehicle is available, employee may take his/her personal vehicle; however, no mileage payments are authorized of the use of personal transportation. Time spent, outside normal working hours, shall not be compensated.

L. COLLEGE DEGREES

Confidential employees, hired on or after January 1, 1998, shall not be eligible for this incentive.

For confidential employees, hired prior to January 1, 1998, City will pay the following education incentives, on base salary, for an Associate of Arts ("AA") or Bachelor's degree, unless the

employee's job description requires an AA or Bachelor's degree, or the employee is promoted to a position requiring an AA or Bachelor's degree:

1. AA degree = \$600 annually
2. Bachelor's Degree = \$1,200 annually

M. COMPENSATION ADJUSTMENTS

Annual Cost of Living Adjustments (COLA) and/or equity adjustments may be given to confidential employees, as determined by the City Manager and approved by the City Council; neither is guaranteed. For fiscal year 2016/17, City is providing a 2.25% COLA base salary increase to the confidential employees' salary ranges as reflected in Attachment A hereto, effective with the pay period containing July 1, 2016.

N. SPECIAL PAY

Confidential employees, who are required by their supervisor to attend meetings, outside the normal work schedule, for the purpose of taking minutes of said meetings, shall be paid a minimum of four (4) hours at time and one-half, without regard for hours actually worked during the work week. Minutes, taken at meetings during regular work hours, shall be included in employee's regular rate of pay, and not compensated beyond that.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 28th day of June 2016, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

ATTACHMENT A

CONFIDENTIAL SALARY SCHEDULE

POSITION	ANNUAL COMPENSATION RANGE				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
Human Resources Analyst					
Senior Accounting Technician	57,564	60,442	63,464	66,637	69,969
Support Services Coordinator	51,346	53,913	56,609	59,439	62,411
Legal Asst/Deputy City Clerk	49,079	51,533	54,110	56,815	59,656



AGENDA NO: A-9

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 22, 2016

FROM: David Buckingham, City Manager

SUBJECT: Adoption of Resolution No. 56-16 Amending the Early Retirement Management Program for the Fiscal Year 2016/17 Approved by Resolution No. 22-16

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 56-16 giving the City Manager authority, under the previously approved Early Retirement Management Program, to approve retirement date, effective earlier than October 30, 2016.

ALTERNATIVES

The Council may choose not to approve Resolution 56-16.

FISCAL IMPACT

There are no direct fiscal impacts associated with this action that are different from the previously approved program.

BACKGROUND/DISCUSSION

In April the Council approved the Early Retirement Management Program (the "ERMP"). The program created an incentive for certain employees to choose to retire early. The program stipulated employees must apply by June 15, 2016, and select retirement dates between October 30, 2016 and December 30, 2016. The purpose of that approach was to allow for an orderly transition between potential retirees and new employees. Staff intended to include an exception in the ERMP giving the City Manager the authority to grant exceptions to the commencement date of October 30, 2016 on a case-by-case basis, when he determined it was in the best interest of both the City and the employee. However, we recently discovered we failed to include that authority.

One applicant has timely requested a retirement date earlier than October 30th and City leadership is prepared to conduct an orderly transition of that position to meet the employee's requested early August retirement. If other employees, who likewise have filed timely applications, request a retirement date before October 30th, Resolution 56-16 would give the City Manager authority to approve those retirements as well. Pursuant to Resolution 56-16, if the City Manager determines an

Prepared By: DS

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

orderly transition is feasible for those other employees, then he would have authority to grant those too.

CONCLUSION

Staff recommends Council approve Resolution No. 56-16 authorizing the City Manager to implement the ERMP by approving retirement dates earlier than October 30, 2016, on a case-by-case basis after determining it is in the City's and the effected employees best interest to do so.

RESOLUTION NO. 56-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY,
CALIFORNIA, AMENDING THE EARLY RETIREMENT MANAGEMENT
PROGRAM ADOPTED BY RESOLUTION NO. 22-16**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, at its meeting of March 22, 2016, the City Council adopted Resolution No. 22-16 which approved the requirements for employees to request early retirement by adoption of the early retirement management program (ERMP); and

WHEREAS, while implementing the approved ERMP the City Manager encountered an employee who desired to take benefit of the ERMP, but begin retirement before the permitted date designated in Resolution No. 22-16:

WHEREAS, based on the foregoing, the City Manager, having determined allowing that employee to retire early was in both the employee's and City's best interests, is requesting an amendment to the ERMP to allow that earlier retirement; and

WHEREAS, the City Council desires to provide the City Manager with the flexibility to grant that early retirement

NOW, THEREFORE, BE IT RESOLVED, by the City Council, City of Morro Bay, California, as follows:

Section 1. The ERMP and Resolution No. 22-16 are hereby amended to allow the City Manager, after determining, in his reasonable judgment, it is in the City's and any effected employee's best interests, to approve an application, filed within the time required by Resolution No. 22-16, for a requested retirement date to occur before October 30, 2016

Section 2. Except as expressly provided herein, all terms and conditions of Resolution No. 22-16 and the ERMP adopted thereby shall remain in full force and effect,

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of June, 2016, on the following vote:

AYES:

NOES:

ABSENT:

Jamie Irons, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: B-1

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 14, 2016

FROM: Whitney McIlvaine, Contract Planner

SUBJECT: Introduction and First Reading of Ordinance 601, as Amended, to Enable the use of Secondary Dwelling Units as Vacation Rentals subject to certain conditions: Local Coastal Program and Zoning Text Amendment (#A00-029) amending Title 17 provisions related to Secondary Dwelling Units and Guesthouses/quarters and Accessory Living Areas

RECOMMENDATION

Staff recommends the City Council:

- 1) Accept the Planning Commission recommendation to adopt text amendments to Title 17 outlined in Exhibit A attached to Ordinance 601; and
- 2) Move to waive reading of Ordinance 601 in its entirety and introduce for First Reading by number and title only; and
- 3) Direct staff to submit a Local Coastal Program (LCP) Amendment to Coastal Commission after second reading and adoption.

ALTERNATIVE

Make additional modifications to Ordinance 601 and adopt as modified with direction to staff to submit as an LCP Amendment for certification by Coastal Commission after 2nd reading and adoption or depending on the significance of those modifications refer the matter back to the Planning Commission for further review and recommendation.

FISCAL IMPACT

The proposed amendments will have a negligible effect on City finances.

SUMMARY

At the second reading of Ordinance 601 on April 12, 2016, the City Council voted to support the prohibition on using secondary dwelling units as vacation rentals with an added provision to allow existing permitted secondary dwelling units with an active vacation rental license to continue operation (on a vote of 4 to 1, with Mayor Irons recusing himself). The City Council also directed staff to return the ordinance to the Planning Commission for review and consideration of changes necessary to effect the added provision.

Prepared By: WM

Dept Review: SG

City Manager Review: DWB

City Attorney Review: JWP

On May 3, 2016, the Planning Commission voted 4 to 0 (with Commissioner Luhr abstaining) to add subsection 17.48.320.H.1 to the recommended ordinance language as follows in italics:

H. Prohibited Use as Vacation Rental.

Secondary dwelling units shall not be rented as vacation rentals. Public notice of applications for secondary dwelling units shall clearly state within the description of the project that they may not be used as vacation rentals.

1. Exemption. Each legal conforming secondary dwelling unit for which the City has issued a valid business tax certificate prior to March 1, 2016, for use of that unit as a vacation rental, may continue to be used as a vacation rental, provided the business tax certificate has remained valid continuously from that date. If the business tax certificate is not kept valid, said secondary dwelling unit shall no longer be exempt from prohibition of use as a vacation rental.

The full text of the ordinance amendment, as recommended by the Planning Commission, is included as Exhibit A to Attachment A.

The Planning Commission also suggested the Council consider having such an exemption no longer apply upon sale of the property or upon any expansion of a secondary dwelling unit allowed to be used as a vacation rental. If the Council supports this suggestion, proposed subsection 17.48.320.H.1 could be further modified as follows:

1. Exemption. Each legal conforming secondary dwelling unit for which the City has issued a valid business tax certificate prior to March 1, 2016, for use of that unit as a vacation rental, may continue to be used as a vacation rental, provided, that (i) the business tax certificate has remained valid continuously from that date, (ii) ownership of that secondary unit is not transferred in any way, by sale, foreclosure, inheritance or otherwise and (iii) the habitable area of that secondary dwelling unit is not enlarged in any way. If any or all of the conditions set forth in (i), (ii), and (iii) are not met, then the rental activity shall immediately cease and said secondary dwelling unit shall no longer be exempt from prohibition of use as a vacation rental.

As you will recall, at the meeting of June 14, 2016, the City Council adopted a moratorium for vacation rental units that allows up to 250 such units. That maximum allowance will not apply to proposed restriction on secondary unit vacation rentals because that proposal requires all secondary vacation rentals to have received a valid business tax certificate prior to March 1, 2016, and maintained that certificate from the date forward. That date was chosen based on when the secondary unit/guesthouse ordinance was initially processed and before the moratorium was adopted. If the Council wants to change or delete that date certain, then this matter should be returned to the Planning Commission for further review

since that would be a significant change to what the Planning Commission considered.

Environmental Determination:

A Negative Declaration was prepared for proposed amendments to the zoning ordinance regarding secondary dwelling units and guesthouses. The environmental document was posted for review and comment for a thirty-day period that concluded on November 29, 2011. The State Clearing House number is 2011101073. The Negative Declaration concluded that proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant adverse impacts to the built or natural environment. Nothing in the currently proposed revisions materially alters that conclusion.

CONCLUSION

Ordinance 601 represents the most recent and most comprehensive review of Morro Bay Zoning Ordinance provisions related to secondary dwelling units and guesthouses. Adoption of the ordinance would resolve inconsistencies with State law regarding secondary dwelling units and provide clear guidelines for the establishment of secondary dwellings and guesthouses and accessory living areas.

ATTACHMENTS

Ordinance 601 with Exhibit A

Links Available on the City's Web Page:

January 5, 2014 Planning Commission agenda and Item B-3 staff report:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2637>

February 16, 2016 Planning Commission agenda and Item B-1 staff report:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2675>

March 22, 2016 City Council agenda and Item B- 1 staff report:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2745>

April 12, 2016 City Council agenda and Item C-4 staff report:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2762>

May 3, 2016 Planning Commission agenda and Item B-2 staff report:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2797>

ORDINANCE NO. 601

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ANNOUNCING FINDINGS AND ADOPTING AMENDMENTS TO TITLE 17
OF THE MORRO BAY MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR
REVIEW OF SECONDARY DWELLING UNITS AND GUESTHOUSES**

**THE CITY COUNCIL
City of Morro Bay, California**

Case No. A00-029 (Local Coastal Plan/Zoning Ordinance Amendment)

WHEREAS, it is the purpose of Title 17 of the Morro Bay Municipal Code (“MBMC”) (the “Zoning Ordinance”) to establish a precise and detailed plan for the use of land in the City based on the General Plan; and

WHEREAS, it is important to have clear, consistent, and easy to use and interpret regulations within the Zoning Ordinance; and

WHEREAS, California State Law §65852.2 requires cities to establish standards to allow for secondary dwelling units so as to increase the supply of smaller, affordable housing compatible with the surrounding neighborhood; and

WHEREAS, the proposed amendments are intended to meet the intent of State Law by providing an option to build a secondary dwelling unit in certain zones that permit single-family dwellings and have no more than one existing single-family home on the property; and

WHEREAS, after duly noticed Public Hearings on January 5, 2016, February 16, 2016, and May 3, 2016, the Planning Commission of the City of Morro Bay did forward a recommendation, by adoption of Planning Commission Resolution No. 14-16, to the City Council to amend the Zoning Ordinance to comply with the State legislation (AB 1866) and also clarify review standards for secondary dwelling units and guesthouses; and

WHEREAS, the General Plan Land Use Element includes residential objectives, which encourage creation of a variety of housing types for all income levels and housing needs; and

WHEREAS, a Negative Declaration was prepared to evaluate the environmental impacts as a result of amendments to Title 17 of the MBMC regarding secondary dwelling units and guesthouses, and determined no significant impacts would result.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain, as follows:

SECTION 1: The City Council finds:

1. The above recitations are true and correct and constitute the findings of the Council in this matter.
2. The Zoning Ordinance Amendment proposal is consistent with the State Statute AB 1866 and includes similar language, which was previously in effect.
3. The previous amendments to the Zoning Ordinance, adopted by Ordinance No. 576, did not reflect the values of the community.
4. The proposed Zoning Ordinance Amendments will not be injurious or detrimental to the health, safety, comfort, general welfare or well-being of the persons residing or working in the neighborhood.
5. The proposed amendment is in general conformance with the City's General Plan and Local Coastal Plan because they forward the objective of creating a variety of affordable housing types and ensure protection of coastal resources.
6. The Local Coastal Program Implementation Program (Zoning Ordinance) Amendments are in compliance with the intent, objectives, and applicable policies and provisions of the California Coastal Act because a finding of no adverse impact on coastal resources is required in order to approve any application for a secondary dwelling unit or guesthouse, and because neither are allowed in the Commercial Visitor Serving zoning district.
7. The proposed amendment is consistent with and implements Housing Element Policy H-10 (Secondary Units) which states, "Allow for the development of secondary housing units as an affordable housing option throughout the city."
8. Due to the need to minimize traffic impacts, no secondary dwelling units shall be allowed in the CRR zone, pursuant to conditions of approval for the Cloisters development (CUP 28-90, CDP 42-90, and TM 01-90).
9. Prohibiting the use of secondary dwelling units as vacation rentals will not have a significant adverse effect on available visitor serving facilities. Vacation rentals are allowed in all zones throughout the City. As of May, 2016 there are approximately 160 licensed vacation rentals and 900 motel rooms, in addition to 2 State parks with camping facilities and numerous second homes used for vacationing by families living outside the City.
10. For purposes of the California Environmental Quality Act, on November, 29, 2011, a Negative Declaration (State Clearing House number 2011101073) was prepared for the then proposed amendments to Title 17 regarding secondary dwelling units and guesthouses. The Negative Declaration concluded those proposed text changes to the Local Coastal Program and Zoning Ordinance would not result in any significant

adverse impacts to the built or natural environment. Nothing in the revisions established by this Ordinance materially alters that conclusion.

11. Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to Title 17 shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will introduce and adopt another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

SECTION 2: The City Council hereby repeals Ordinance No. 507, Ordinance No. 576, and Ordinance No. 585.

SECTION 3: Based upon all the foregoing, Title 17 of MBMC is amended set forth in Exhibit "A," attached hereto and made a part of this Ordinance.

SECTION 4: This Ordinance shall become effective on the 31st day after its adoption but shall not become operative until it is certified by the Coastal Commission.

INTRODUCED at the regular meeting of the City Council held on the 28th day of June 2016, by motion of _____ and seconded by _____.

PASSED, APPROVED, AND ADOPTED, by the City Council of the City of Morro Bay, on the _____ day of _____, 2016, on the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 28th day of June, 2016, and hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2016, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2016.

City Clerk of the City of Morro Bay

EXHIBIT A

*The changes to the City's Zoning Ordinance (Title 17), and Local Coastal Program are shown in underline for additions, while ~~strike through~~ indicates deletions. Plain text indicates existing zoning ordinance language to be retained. **Bold italics** indicate recommended general changes.*

CHAPTER 17.12 DEFINITIONS

Delete Section 17.12.295, definition for "Granny Unit," and replace with new definition for "Secondary Dwelling Unit" as follows:

~~17.12.295~~ ~~GRANNY UNIT~~

~~"Granny Unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons (accessory to a single family residence in specific zones permitting such use). It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single family dwelling.~~

17.12.295 Secondary dwelling unit.

"Secondary dwelling unit" means a dwelling unit that (i) is detached from or attached to the primary residential dwelling unit, which provides complete independent living facilities for one or more persons, (ii) includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot as the primary residential dwelling unit and (iii) "second unit," as set forth in Sections 65852.150 and 65852.2 of the California Government Code.

Delete Section 17.12.300, definition for "Guesthouse," and replace with new definition for "Guesthouse / Accessory living area" as follows:

~~17.12.300~~ ~~Guesthouse.~~

~~"Guesthouse" means any attached or detached accessory building which does not have enclosed access directly to the interior of the principle residence, which has any bathroom facility and which does not contain a kitchen, cooking facilities, or food preparation or storage facilities, and where no compensation in any form is received or paid for use thereof.~~

17.12.300 Guesthouse / Accessory living area.

"Guesthouse / Accessory living area" means an attached or detached habitable area that is used in conjunction with a primary single-family dwelling on the same lot and may have bathroom facilities, but does not have enclosed access to the interior of that primary single-family dwelling and does not contain a kitchen or any cooking or food preparation facilities, nor more than one bedroom.

In general, replace all references in the Zoning Ordinance to “granny unit” with “secondary dwelling unit”. This includes references in Chapter 17.44, Parking and Chapter 17.24, Primary Districts (discussed below).

CHAPTER 17.24 PRIMARY DISTRICTS

The following changes shall be made to the tables in the Chapter 17.24 in designated areas zoned for single-family and multi-family use:

- In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for secondary dwelling units that meet the applicable standards in Section 17.48.320 “Secondary Dwelling Units.”***
- In the AG, RA, R-1, R-2, R-3, and R-4 districts, delete the requirement for a minor use permit for guesthouses that meet the applicable standards in Section 17.48.315 “Guesthouse / Accessory living area.”***
- Delete references to “granny unit”.***

CHAPTER 17.48 GENERAL REGULATIONS, CONDITIONS AND EXCEPTIONS

17.48.315 ~~GUESTHOUSES/QUARTERS AND ACCESSORY LIVING AREAS~~ Guesthouse / Accessory living area.

Where provided by this Title, guesthouses and habitable structures for accessory living areas may be permitted in conjunction with a ~~dwelling unit~~ primary single-family dwelling, subject to the below requirements:

A. ~~Guesthouse Restrictions.~~ Size.

A guesthouse / accessory living area shall not contain more than six hundred forty (640) square feet of habitable floor area ~~containing not more than one bedroom and bathroom~~ nor shall it exceed thirty (30) percent of the floor area of the primary single-family dwelling, ~~and no cooking or food preparation or food storage facilities shall be provided.~~

B. ~~Use Permit Requirements.~~

~~A guesthouse may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. In all cases, the Director shall require the recordation of a deed restriction limiting the use to guest purposes only and prohibiting its rental or occupation as a second unit. Such deed restriction shall be subject to the approval of the City Attorney. (Ord. 288 Exh. B (part), 1986; Ord. 263 § 1 (part), 1984)~~

1. Outside the Coastal Commission appeal jurisdiction, guesthouses and accessory living areas may be permitted only after obtaining an administrative coastal development permit pursuant to Chapter 17.58 “Coastal Development Permits and Procedures.”

2. In the CRR zone, a conditional use permit is required pursuant to Chapter 17.60.

3. Inside the Coastal Commission appeal jurisdiction, guesthouses and accessory living may be permitted only after obtaining a regular coastal development permit pursuant to Chapter 17.58 "Coastal Development Permits and Procedures."

C. Location.

Guesthouses and accessory living areas may be established on any lot zoned R-A, R-1, R-2, R-3, R-4, AG and CRR, with the required permit, in accordance with District Tables in Chapter 17.24, where a primary single-family dwelling has been constructed or is proposed to be constructed in conjunction with the guesthouse or living area. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot; provided, that both may be permitted on any lot which is a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. Guesthouses and accessory living areas are prohibited in the S.2B Overlay.

D. Development Standards.

Guesthouses and accessory living areas shall comply with all development standards applicable to the zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage, cumulatively with the primary residence.

E. Parking.

As part of the permit process, additional parking may be required for guesthouses and accessory living areas.

F. Design.

Guesthouses and accessory living areas shall be consistent and compatible with the architectural style of the primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary residence.

G. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "guesthouse / accessory living area." That agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to future property owners. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

H. No Separate Rental.

A guesthouse / accessory living area may not be rented separately from the primary single-family dwelling. Public notice of each application for a proposed guesthouse or an accessory living area shall clearly state within the project

description it may not be rented separately from the primary single-family dwelling on site.

I. Consistency with the Coastal Act.

Establishment of a guesthouse / accessory living area shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

17.48.320 ~~Granny Units~~ Secondary dwelling units.

The purpose of this Section is to provide affordable low- and moderate-income housing. ~~Pursuant to Government Code Section 65852.2, in zones where designated, a permit may be granted allowing a granny second unit on lots where there is one single family residence, subject to the following provisions:~~ The following supplemental regulations are intended to comply with Government Code sections 65852.150 and 65852.2 on second units and implement the General Plan, by allowing secondary dwelling units subject to the following requirements. Nothing in Government Code sections 65852.2 or 65852.150 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act, except that the City shall not be required to hold public hearings for coastal development permit applications for second units. (Government Code subsection 65852.2(j).) Noticing for interested parties and surrounding properties shall be the same as required for coastal development permits. An approval of any secondary dwelling unit in the California Coastal Commission appeal jurisdiction will continue to be appealable to the Coastal Commission.

~~A. Minor Use Permit and Deed Restriction Required~~

~~A granny second unit may be permitted only after obtaining a Minor Use Permit pursuant to Chapter 17.60. A deed restriction in a form approved by the City Attorney shall be recorded limiting the use of said real property to residential purposes only.~~

~~A.B. Location.~~

~~Said A secondary dwelling unit may be located, as an accessory use, on any lot zoned for single family or multi-family uses zoned R-A, R-1, R-2, R-3, R-4, and AG, in accordance with District Tables in Chapter 17.24, where a primary single-family residential use has been established or is proposed to be constructed in conjunction with that unit. Only one guesthouse / accessory living area or secondary dwelling unit is permitted on the same lot; provided, that both may be permitted on any lot which is a minimum of 7,500 square feet in size, subject to approval of a conditional use permit. A secondary dwelling unit may be allowed on any lot zoned AG only if the unit is expressly designated and used for farm laborer quarters.~~

~~B.C. Lot Coverage Development Standards.~~

~~Maximum lot coverage allowed for the District that they are located in. Secondary dwelling units shall comply with all development standards applicable to the~~

zoning of the site on which they are located, including, but not limited to, building height, separation, setbacks, and lot coverage, cumulatively with the primary residence.

C.D. Design.

~~Said~~—A secondary dwelling unit shall be consistent and compatible with the architectural style of the ~~main residence~~ primary single-family dwelling and the neighborhood, and shall be located on the same lot as the primary single-family dwelling. All secondary dwelling units shall have a separate outdoor entrance in addition to any enclosed access to the interior of the primary single-family dwelling.

D.E. Size.

~~The total floor area, not including a garage, for a granny second unit shall not exceed 1,200 square feet.~~ The total floor area, including a garage, for a detached secondary dwelling unit shall not exceed the lesser of 900 square feet, as per State guidelines or fifty percent of the living area of the primary single-family dwelling on the same lot; provided, that up to 1,200 square feet, including a garage, may be allowed for a detached secondary dwelling unit with a Conditional Use Permit pursuant to Chapter 17.60 “Use Permits, Procedures, Notices and Variances.” The floor area of an attached secondary dwelling unit shall not exceed thirty percent of the living area of the primary single-family dwelling.

E.F. Parking.

A minimum of one additional parking space per bedroom, not to exceed two spaces, shall be provided. The parking spaces may be open and uncovered and may be located in setback areas, however they may not be in tandem with the required parking of the primary single-family dwelling. When more than one space is required for a secondary dwelling unit, tandem spaces shall only be allowed for those two spaces with a Conditional Use Permit pursuant to Chapter 17.60. The primary single-dwelling unit must conform to the parking requirements of Chapter 17.44 “Parking, Driveway and Loading Facilities.” Off-street parking shall be permitted in setback areas or through tandem parking, unless the following specific findings are made:

- ~~—1. That parking in setback areas or tandem parking is not feasible based upon specific site topography constraints or adverse fire and life safety conditions, or~~
- ~~—2. That it is not permitted anywhere else in the City.~~

G. Water Equivalencies and Other Public Facilities.

~~The developer shall obtain and/or pay for all applicable water equivalency and other public facility improvements at the standard set for an apartment unit prior to issuance of a building permit, but will not be subject to a residential unit allocation under the provisions of Measure F.~~

H. Compliance with Title 14.

~~A granny secondary dwelling unit shall be in conformance with all applicable provisions of Title 14 of the Morro Bay Municipal Code in addition to the applicable requirements for height, setback, lot coverage, etc. pursuant to the provisions of Chapter 17.24.~~

F. Water Service and Meter Requirements.

A separate water service and meter is required for detached secondary dwelling units pursuant to Title 13 of the Morro Bay Municipal Code. An attached secondary dwelling unit may be served by a separate water service and meter or may share the water service and meter with the primary single-family dwelling.

G. Permit Requirements.

1. No use permit shall be required for secondary dwelling units except as noted in this section and where a secondary dwelling unit is proposed as an addition to a nonconforming structure pursuant to Chapter 17.56 "Nonconforming Uses and Structures."

2. Outside the Coastal Commission appeal jurisdiction, an administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.

3. Inside the Coastal Commission appeal jurisdiction, a regular coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.

H. Prohibited Use as Vacation Rental.

Secondary dwelling units shall not be rented as vacation rentals. Public notice of applications for secondary dwelling units shall clearly state within the description of the project that they may not be used as vacation rentals.

1. Exemption. Each legal conforming secondary dwelling unit for which the City has issued a valid business tax certificate prior to March 1, 2016, for use of that unit as a vacation rental, may continue to be used as a vacation rental, provided the business tax certificate has remained valid continuously from that date. If the business tax certificate is not kept valid, said secondary dwelling unit shall no longer be exempt from prohibition of use as a vacation rental.

I. Consistency with the Coastal Act.

Establishment of a secondary dwelling unit shall not adversely impact coastal resources such as public access and recreation, public views, and sensitive habitat areas.

J. Density.

A secondary dwelling unit, which conforms to the requirements of this section, shall not be considered to exceed the allowable density for the lot upon which it is located.

K. No Subdivision of Property.

The secondary dwelling unit shall not be sold separately and no subdivision of property shall be allowed where a secondary dwelling unit has been constructed, unless the subdivision meets all requirements of zoning and subdivision regulations. Nothing in this section shall prohibit joint ownership of the property where a secondary dwelling unit has been constructed.

L. Covenant Agreement.

Prior to the issuance of any building or grading permit, a covenant agreement shall be recorded which discloses the structure's approved floor plan and status as a "secondary dwelling unit." This agreement shall be recorded in the Office of the County Recorder for San Luis Obispo County to provide constructive notice to all future owners of the property. The covenant agreement also may contain authorization for inspections, and to allow the city, upon reasonable time and notice, to inspect the premises for compliance with the agreement and to verify continued compliance with requirements of this section and State and local health and safety codes.

M. Acceptance of Existing Secondary Dwelling Units.

1. Exemption. Each secondary dwelling unit that existed on or before March 1, 2016, ("Existing Secondary Dwelling Unit") and that meets the requirements of the Uniform Housing Code, as determined by the Building Inspector, on a lot that includes the required number of parking spaces for both the primary single-family dwelling and the secondary dwelling unit, is exempt from the unit size and design requirements of this section; provided that to be able to benefit from this exemption an Existing Secondary Dwelling Unit must be issued a timely Acceptance Certificate, as provided in subsection 2., below.

2. Acceptance Certificate Required. To obtain an Acceptance Certificate, an owner of an Existing Secondary Dwelling Unit must file an application with the Community Development Department for acceptance of the unit on or before [DATE]. (within two years of certification of this ordinance)

3. Application and Procedure. An application for a certificate timely filed must include a site and floor plan, documentation of ownership, additional materials as required to establish the approximate date the secondary dwelling unit was built, and a fee, as established by City Council resolution. Upon receipt of the application, the Building Inspector will schedule an inspection.

4. If the secondary dwelling unit meets basic health and safety standards as identified in the then current Uniform Housing Code, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City's database indicating the secondary dwelling unit is legal.
5. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is brought into compliance within a period of not more than 12 months after the date of inspection, then an Acceptance Certificate will be issued and the secondary dwelling unit address will be entered into the City's database indicating the secondary dwelling unit is legal.
6. If the required inspection determines the secondary dwelling unit does not meet health and safety standards identified in the then current Uniform Housing Code, and it is not brought into compliance within a period of not more than 12 months after the date of inspection, then that unit shall be deemed an illegal non-conforming use and demolished within 6 months after notice from the City.
7. Notwithstanding the foregoing application, inspection and certification process, no person shall rent or occupy a secondary dwelling unit that fails to meet the standards required by the Uniform Housing Code.
8. A secondary dwelling unit, which receives an Acceptance Certificate, but does not meet site development standards, will be considered a legal nonconforming unit.

Chapter 17.58 COASTAL DEVELOPMENT PERMITS AND PROCEDURES

17.58.020(G) Additions to Single-Family Homes.

- 2.b. Regular coastal permit required for additions greater than ten percent of gross floor area, fences, garages, and other ancillary structures, including ~~secondary units~~ (secondary dwelling units) and guesthouses and accessory living areas.

17.58.020(I) Secondary Dwelling Units.

1. Outside the Coastal Commission appeal jurisdiction, an administrative coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.
2. Inside the Coastal Commission appeal jurisdiction, a regular coastal development permit, which does not require approval at a Planning Commission hearing but does require noticing, shall be required for secondary dwelling units.



AGENDA NO: B-2

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council **DATE: June 17, 2016**

FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: Adoption of Resolution No. 52-16 Directing the Levy of the Annual Assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends the City Council conduct the final public hearing and adopt Resolution No. 52-16, approving the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District for FY 2016/17.

ALTERNATIVE

Not adopt Resolution No. 52-16 and provide specific direction for staff.

FISCAL IMPACT

By adopting Resolution No. 52-16, \$148,944 will be collected through an assessment of all parcel owners in the Cloisters subdivision for the Cloisters Landscape and Lighting Maintenance Assessment District for the maintenance of the Cloisters Park and Open Space.

SUMMARY

At the May 10, 2016, City Council meeting, Council adopted Resolution No. 33-16 approving the [Engineer's Report](#) describing the annual maintenance to be completed at the Cloisters Park and Open Space, and declaring the City's intent to levy an annual assessment to finance this maintenance. The assessment, projected at \$1,241.20 per assessable lot in the Cloisters subdivision, will be collected by the County Assessor. As part of the assessment process, the City ordered the preparation of an Engineer's report, adopted a resolution of intention to levy an assessment, and set June 28, 2016 as the public hearing date on the proposed levy of assessment. The Council must hold this public hearing before considering the levy of the annual assessment.

BACKGROUND/DISCUSSION

Up until last year, this required public hearing was advertised as a "protest hearing," where those in the assessment district could file protests to the continuation. Existing State law does not require a protest hearing, so long as there are no increases in the assessment. Currently, there are no proposed increases

Prepared By: RL

Dept Review: RL

City Manager Review: DWB

City Attorney Review: JWP

to the assessment amount.

In 2004, the Court determined, due do a lawsuit filed by three Cloisters residents, there are many special benefits associated with the Cloisters Assessment District. The Cloisters lots directly benefit from the huge extent of the Cloisters open space and close proximity of the public park, bicycle pathway, right of way landscaping, ESH restoration areas and coastal access. There was also created, and reserved in favor of each owner in the Cloisters Development, easements for view, open space, scenic, passive recreation and coastal access across the entirety of LOTS 121, 122 and 123, which shall not be developed with any improvements or structures, unless necessary and proper for the restoration and maintenance of the Environmentally Sensitive Habitat Area. The Court determined further special benefits include: improved aesthetic appeal of nearby parcels, improved dust control, enhanced adaptation of the urban environment within the natural environment, improved erosion resistance, improved drainage and flood control, enhanced crime deterrence and aid to police protection, increased nighttime safety on roads and highways, improved visibility for pedestrians and motorists, improved ingress and egress to property, reduced vandalism and other criminal acts and damage to improvements or property, improved traffic circulation, reduced nighttime accidents, and special enhancement to property value resulting from the above benefits.

The Court also determined the City does not need to, nor is it required to; prepare an annual redetermination of the separation of special and general benefits. The Court specially held:

“When the special assessment district was formed the owner of all of the parcels consented to its formation. Moreover, the owner did not object to the amount of the assessment, which the City based upon the cost of the special benefits being conferred on the properties within the assessment district, nor to the specific amount allocated to each parcel as its proportionate share. Because express consent to the amount and allocation of the assessment was given by petitioners' predecessor, and petitioner's purchased their properties with actual or constructive knowledge of the amount of the assessment, it is too late for them now to withdraw the consent and attack the amount of the assessment.”

While the benefits from the assessment go far beyond the maintenance of the District's amenities, staff continues to recognize the importance of meeting our obligations, which are outlined in the Engineer's Report. Staff continues to utilize various means to inform Cloisters residents of upcoming meetings and various upcoming maintenance tasks, including the regular meeting, email to the Cloisters Yahoo group, the City's web based "Notify Me" and the "Doodle Poll" app.

Currently most maintenance activities are contracted. This outsourcing approach has shown to be an effective maintenance tool for the District, but has not reduced the overall costs of upkeep. During the next contracting period staff will develop alternative methods for reducing maintenance costs in order to enhance the capital reserve fund. One method will be either performing janitorial services in house or providing a separate contract for such services. Savings from periodic maintenance performance will be allocated to deferred maintenance/capital projects. Projects anticipated for FY 16/17 include the overhaul of the center median landscaping to a more drought tolerant and to require a lower level of

ongoing maintenance.

CONCLUSION

Staff recommends continuation of the Assessment District to fulfill the City's obligation in maintaining the Cloisters Lighting and Maintenance Assessment District. Staff will continue communicating with the owners to enhance our relationships and to allow for noticing of upcoming events which may impact their residences.

RESOLUTION NO. 52-16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT
FOR THE CLOISTERS LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT PURSUANT TO THE
“LANDSCAPING AND LIGHTING ACT OF 1972”
(STREETS AND HIGHWAYS SECTIONS 22500 *ET. SEQ.*)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, on May 10, 2016, the City Council adopted Resolution No. 33-16 declaring the Council’s intent to levy an assessment for the annual maintenance of the Cloisters Park and Open Space and approving the Engineers Report; and

WHEREAS, a public hearing for to the levy of the annual assessment of the district was scheduled for June 28, 2016, at 7:00 p.m. in the Veteran’s Memorial Building; and

WHEREAS, the City Council did take public testimony from all interested parties as to the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District on June 28, 2016 at the Veteran’s Memorial Building.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay:

1. The annual levy for the maintenance of Cloisters Landscaping and Lighting Maintenance Assessment District, generally located as shown on Exhibit “A” attached hereto, is hereby ordered and the assessment of \$148,944 to be equally distributed per assessable parcel for the Fiscal Year 2016-17 is hereby confirmed.

2. Adoption of this Resolution shall constitute the levy of an assessment for the Fiscal Year 2016-17 and the City Clerk shall file the diagram and assessment with the County of San Luis Obispo Auditor.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held this 28th day of June, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, MAYOR

ATTEST:

DANA SWANSON, CITY CLERK

TPOB PARCEL 1
Most northerly corner of
Lot 122 of Tract 1998

0 100 200 400
1" = 400'

TPOB PARCEL 2

PARCEL 2

PARCEL 1

EXHIBIT A



AGENDA NO: B-3

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: June 17, 2016

FROM: Rob Livick, PE/PLS – Public Works Director/City Engineer

SUBJECT: Adoption of Resolution No. 53-16 Directing Levy of the Annual Assessment for the North Point Natural Area Landscaping and Lighting Maintenance Assessment District

RECOMMENDATION

Staff recommends the City Council conduct the public hearing and adopt the levy of the annual assessment for the North Point Natural Area Landscaping and Lighting Maintenance District by adopting Resolution No. 53-16.

ALTERNATIVES

Not adopt Resolution No. 53-16 and provide specific follow up direction for staff.

FISCAL IMPACT

By adopting Resolution No. 53-16, \$5,645 will be collected through an assessment of all parcel owners in the North Point subdivision for the maintenance of the North Point Natural Area.

DISCUSSION

At the May 10, 2016 City Council meeting, the Council adopted Resolution No. 34-16 approving the [Engineer's Report](#) describing the annual maintenance to be completed at the North Point Natural Area, and declaring the City's intent to levy an annual assessment to finance the maintenance. The assessment, projected at \$564.50 per assessable lot in the North Point subdivision, will be collected by the County Assessor. As part of the assessment process, the City ordered the preparation of an Engineer's report, adopted a resolution of intention to levy an assessment, and set June 28, 2016, as the public hearing date on the proposed levy of assessment. The Council must hold a public hearing before considering the levy of the annual assessment.

CONCLUSION

Staff recommends continuation of the Assessment District to fulfill the City's obligation in maintaining the North Point Natural Area Landscaping and Lighting Maintenance Assessment District.

Prepared By: RL

Dept Review: RL

City Manager Review: DWB

City Attorney Review: JWP

RESOLUTION NO. 53-16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DIRECTING THE LEVY OF THE ANNUAL ASSESSMENT FOR THE NORTH POINT
NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT PURSUANT TO THE
“LANDSCAPING AND LIGHTING ACT OF 1972”
(STREETS AND HIGHWAYS SECTIONS 22500 *ET. SEQ.*)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, on May 12, 2015, the City Council adopted Resolution No. 34-16 declaring the Council’s intent to levy an assessment for the annual maintenance of the North Point Natural Area and approving the Engineers Report; and

WHEREAS, a public hearing regarding the levy of the annual assessment of said district was scheduled for June 28, 2016 at 6:00 p.m. in the Veteran’s Memorial Building; and

WHEREAS, the City Council did take public testimony from all interested parties as to the levy of the annual assessment for the North Point Landscaping and Lighting Maintenance Assessment District on June 28, 2016 at the Veteran’s Memorial Building.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay,

1. The annual levy for the maintenance of North Point Natural Area Landscaping and Lighting Maintenance Assessment District generally located as shown on Exhibit “A” attached hereto is hereby ordered and the assessment of \$5,645 to be equally distributed per assessable parcel for the Fiscal Year 2016/17 is hereby confirmed.

2. Adoption of this Resolution shall constitute the levy of an assessment for the Fiscal Year 2016/17 and the City Clerk shall file the diagram and assessment with the County of San Luis Obispo Auditor.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held this 28th day of June, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

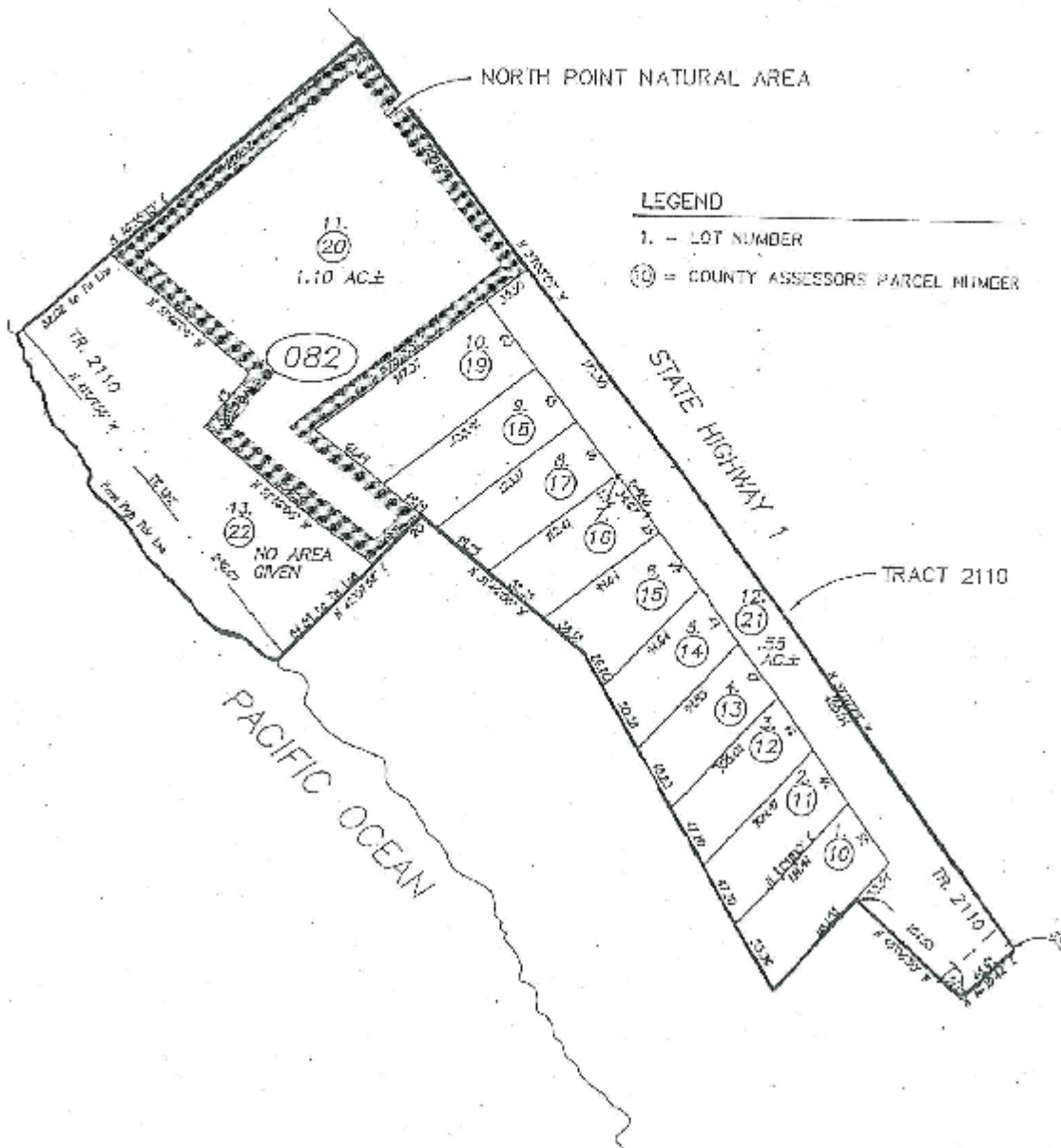
JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

NORTH POINT NATURAL AREA
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT

ASSESSMENT DIAGRAM





AGENDA NO: C-1

MEETING DATE: June 28, 2016

Staff Report

TO: Honorable Mayor and City Council

DATE: June 17, 2016

**FROM: Joan Gargiulo, Assistant Planner
Scot Graham, Community Development Manager**

SUBJECT: Adoption of Resolution No. 54-16 Memorializing the Historic Parking Credits Interpretation, Temporarily Suspending Parking In-Lieu Fees for the Embarcadero and Downtown Areas, and Directing the Evaluation of the Commercial Parking Program

RECOMMENDATION

Staff recommends the City Council review the recommendation from the Planning Commission regarding historic parking credits and adopt Resolution No. 54-16 memorializing historic parking credits, suspending parking in-lieu fees for the Parking Management District for 18-24 months, and directing the evaluation of the overall commercial parking program as part of the General Plan/Local Coastal Program update process.

ALTERNATIVES

1. The City Council may move to revise Resolution No. 54-16, in some manner acceptable to a majority of the Council.
2. The City Council may choose not to take action on the Planning Commission recommendation.

FISCAL IMPACT

Suspension of the Parking In-Lieu fee program would result in the loss of \$15,000 per parking space for any projects that come forward and would otherwise require payment of in-lieu fees to offset the parking demand for the project. However, the intent of the suspension of In-Lieu fee payments is meant as an economic incentive for existing businesses to expand/remodel and for new businesses to relocate in Morro Bay.

BACKGROUND/DISCUSSION

The City Council has recently approved two consent of land owner authorizations and directed preparation of a Request for Proposal (RFP) for redevelopment of other lease sites along the Embarcadero. The referenced lease sites include the Aquarium at 595 Embarcadero, Burt Caldwell's Libertine at 801 Embarcadero, and the recently released RFP for the redevelopment of Off the Hook

Prepared By: JG

Dept Review: SG

City Manager Review: DWB

City Attorney Review: JWP

lease site at 833 Embarcadero. Each of those lease sites are relying on the historic ‘grandfathered’ parking credits, as memorialized in past permit approvals, City communications, staff reports, and other documents.

At the May 3, 2016, Planning Commission meeting, staff presented research pertaining to the City’s past practices relating to the honoring of historic parking credits (see Planning Commission May 3rd staff report provided as Attachment A and meeting minutes provided as Attachment D). As a result of the parking credit review, the Planning Commission made the following recommendation to the City Council:

- Recognize Historic Parking Credits on the Embarcadero
- Suspend the Parking In-Lieu Fee Payment Program on the Embarcadero and in Downtown for 18 to 24 months. The suspension would be to Council Resolution 37-05, which established the In-Lieu fee payment at \$15,000 per space. See Attachment C for a copy of Resolution 37-05.
- Develop a comprehensive parking management solution as part of the GP/LCP update

The recommendations above are a result of the Planning Commission finding the City has a well-established pattern of recognizing parking credits and the fact current lessees are relying on this past practice to develop plans for lease site redevelopment. Given the significant investment involved with lease site redevelopment and acknowledging the grandfathered parking practice is fairly well documented, the Planning Commission did not find it reasonable to now change course 180 degrees and to require all development to either provide the requisite parking on site or to pay in-lieu fees. Furthermore, the Planning Commission found the provision of onsite parking, for Embarcadero lease sites, an undesirable feature as it would significantly reduce the availability of commercial lease space on the ground level floor.

CONCLUSION

It is staff’s recommendation the City Council adopt Resolution No. 54-16 memorializing the past practice of utilizing historic parking credits, suspending the collection of parking in-lieu fees for the Embarcadero and Downtown areas for 18-24 months, and directing the development of an overall Commercial Parking Program as part of the General Plan / Local Coastal Program update process.

ATTACHMENTS

- A. City Council Resolution 54-16
- B. Planning Commission May 3, 2016 Staff Report
- C. Parking In-Lieu Fee Resolution 37-05
- D. Draft PC Minutes May 3, 2016

RESOLUTION NO. 54-16

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA TO MEMORIALIZE HISTORIC PARKING CREDITS, SUSPEND PARKING IN-LIEU FEES FOR THE EMBARCADERO AND DOWNTOWN AREAS, AND DIRECT THE EVALUATION OF THE COMMERCIAL PARKING PROGRAM

THE CITY COUNCIL City of Morro Bay, California

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 3, 2016, for the purpose of considering an interpretation of historic parking credits and to forward a recommendation to City Council for approval; and

WHEREAS, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on June 28, 2016, for the purpose of considering the memorialization of historic parking credits, the suspension of parking in-lieu fees for the Embarcadero and Downtown areas for 18- 24 months, and directing the evaluation of the overall commercial parking program as part of the General Plan / Local Coastal Plan update process; and

WHEREAS, the City Council has duly considered all evidence, including the recommendations made by the Planning Commission, the testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay as follows:

1. Use of historic parking credits along the Embarcadero is an acceptable practice for evaluation of parking requirements found Chapter 17.44 of the City of Morro Bay Municipal Code.
2. The Parking In-Lieu fee program, established by Resolution No. 37-05, shall be suspended, from the date of adoption of this Resolution, for a period of no more than 24 months, as an economic incentive for new or redevelopment/expansion of commercial properties within the City. The City Council may reduce or increase that period by adoption of another resolution.
3. Staff is directed to develop a comprehensive parking solution for the downtown and waterfront/Embarcadero areas of the City as part of the General Plan/Local Coastal Program update process, including recommending actions needed to rescind or revised this Resolution and Resolution No. 37-05. as needed.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 28th day of June, 2016 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST

DANA SWANSON, City Clerk

Attachment B



AGENDA NO: C-1

MEETING DATE: May 3, 2016

Staff Report

TO: Planning Commissioners

DATE: May 3, 2016

FROM: Joan Gargiulo, Assistant Planner

SUBJECT: Interpretation of historic parking credits

RECOMMENDATION:

Staff recommends the Planning Commission review and forward a recommendation to Council for memorialization of historic parking credits on the Embarcadero in addition to requesting that the Council direct evaluation of the overall Commercial parking program as part of the General Plan/Local Coastal Program update process.

BACKGROUND:

The parking requirements as set forth in Section 17.44.020 of the Morro Bay Municipal Code require the provision of parking for the creation or enlargement of a structure or the intensification of a use. This section goes on to read “a change, expansion, or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion.”

The City’s adopted 2007 Parking Management Plan defines grandfathering as the practice allowed by the City for certain properties, uses, and activities that legally exist prior to the adoption of the Zoning Ordinance. It does not specify which area of town, nor does it specifically reference the Embarcadero area.

“‘Grandfathering’ is a commonly used tool that allows a city to retain some flexibility in how it wants to consider re-use proposals for existing land uses and buildings and, as such, can have a bearing on the extent to which the development community may be able to beneficially revitalize under-utilized, vacated, historical, or blighted sites and buildings. As an example, by employing the ‘grandfather’ practice, the City may elect to not apply current parking requirements for beneficial re-use of a historically important or community iconic building, because doing so may not allow the building to remain in its current configuration; thereby destroying its historical or iconic appearance, or may require the building to be removed altogether. With the ‘grandfathering’ tool, the City may be able to encourage or better-accommodate economic development of certain sites along with consideration of creative or

Prepared By: __JG____

Department Review: _____

equivalent alternate solutions to meeting or otherwise satisfying current parking requirements. In employing the ‘grandfather’ practice, the City is still obligated to address potential resulting environmental effects, or otherwise make findings required by law” (Pg. 64-65, 2007 Parking Management Plan).

DISCUSSION:

The City Council has recently approved two consent of land owner authorizations for redevelopment of lease sites along the Embarcadero in addition to the direction provided by Council on April 26, 2016, to issue an RFP for redevelopment of a third lease site on the Embarcadero. Each of these lease sites are relying on the historic ‘grandfathered’ parking credits as memorialized in past permit approvals, City communications, staff reports, and other documents. The referenced lease sites include the Aquarium at 595 Embarcadero, Burt Caldwell’s Libertine at 801 Embarcadero, and Vi League’s Off the Hook project at 833 Embarcadero.

Historical research into the City’s past practices with regard to historic parking credits along the Embarcadero is itemized below:

1. 801-833 Embarcadero

- a. Parking Study** – A parking study was prepared in 2012 by City staff with regard to a proposed conference center project (Exhibit A). The conclusion of this study reads as follows:

“According to historical documents, it has been determined that 833 Embarcadero holds 58 parking credits, and 801 Embarcadero holds 79 credits. Conditional Use Permit UP0-212 for 801-833 Embarcadero implies that the site has a total of 10 Parking credits (which is less than the sum of both separate addresses, $58+79=137$). Integration of the two sites for construction of the conference center will no longer occur, and therefore the sites should receive the individual credit historical documentation supports. 833 Embarcadero: 58 credits. 801 Embarcadero: 79 credits.”
- b. 801 Embarcadero** - Letter from Planning staff dated 9/20/2006 states a total 79 parking spaces are credited based on the previous uses and square footages approved via building permits. (This includes provision of 5 on-site spaces with 74 historic). This letter was written at the behest of the current lease holder, Burt Caldwell (Exhibit B).
- c. 833 Embarcadero** – Staff report written in 2007 (Exhibit C) for mixed-use restaurant/retail and lodging project references the retention of historic parking credits, Vi League, Applicant. A Planning Commission Memo regarding CUP-36-99 dated March 20, 2000 (Exhibit D) was written in response to Planning Commission directive for resubmittal of project plans. Discussion item #4 reads “It was agreed that the parking is sufficient due to parking credited to the site.” It appears that at one time, the City interpreted the historic parking credits to apply only to remodels as evidenced by a 2008 staff report (Exhibit E) written by the Planning Manager at the time: “the

Applicants are requesting the project be considered a remodel in order to retain the historic parking credits” (pg. 1).

2. **Other Site Review:** In addition to review of 801 and 833 Embarcadero, other review was done at 575/591 Embarcadero, 595 Embarcadero, 845 Embarcadero, 901 Embarcadero and 1185-1215 Embarcadero. Each of the properties, whether correspondence or staff report, all showed consistent application of the “grandfathering parking practice” where for example at 575/591 Embarcadero, the 10/17/2012 staff report, as paraphrased below, specifically recognizes parking credits retained from previous uses regardless of demolition:

“...It has been the practice of the City to interpret 17.44.020 to recognize the grandfathered parking from previous uses. This interpretation is to encourage and better accommodate economic development of commercial sites with limited parking opportunities and that have accommodated the parking in the surrounding area in the past.”

Also, Director correspondence to Applicant in 2012 for 575/591 Embarcadero also noted that “credits should be allocated from historic uses on the property even though the structures were proposed to be demolished.”

It should be noted that not all development on the Embarcadero utilized the grandfathering practice. Redevelopment of smaller sites such as 501 (Estero Inn) and 561 (Gray’s Inn) both paid in-lieu parking fees. The staff reports are silent on whether they did in fact have historic credit. In these 2 cases they provided some parking on-site and paid in-lieu for the balance. At 899 Embarcadero, the Anderson Inn, no increase in parking requirements were triggered because the proposed hotel and shopping area was deemed to be less intense than the previous use. Specifically, the parking requirements for the three lease sites noted above are summarized below:

1. **501 Embarcadero / Estero Landing** concept plan approved 2/21/2006 for mixed-use project with first floor as retail commercial and second floor with 6 lodging units. Required parking was a total of 11 spaces (4 retail +7 lodging). The project proposed 4 spaces on-site, with parking agreement for 3 spaces off-site and previous parking in-lieu payment for 4 spaces. (Exhibit F)
2. **561 Embarcadero / Grey’s Inn** approved CUP 07-92 precise plan on 2/16/1993 for expansion of existing commercial building 456sf second floor motel unit; 327sf addition to 2nd floor office and 400sf addition to 2nd floor for gallery and framing area, which as a condition of approval required \$12,000 in parking lieu fees. No discussion of parking credit is in the 2/16/93 staff report. The parking section is limited only to discussion of “working with the application for a payment schedule...for 3 in-lieu parking spaces.” (Exhibit G)
3. **899 Embarcadero / Anderson Inn** / CUP 25-03 approved 1/5/2003 for replace existing Galley restaurant with three commercial lease spaces and an 8 room inn. The staff report noted that the parking requirements were less because a hotel use has less

parking requirements than a restaurant use. The site had a portion of the parking partially on the street and partially on the lease site with arrangement proposed to be retained. Even with new commercial lease spaces, the overall parking requirement was less and project proposal deemed to be a net benefit. No parking in-lieu fees were required. (Exhibit H)

CONCLUSION:

Staff is aware that the Commission has voiced concern in the past regarding use of historical parking credits in association with development along the Embarcadero. However, at this time it is Staff's opinion that past practice has already been well established and current lessee's are relying on this past practice to develop plans for lease site redevelopment. Given the significant investment involved with lease site redevelopment and the fact that the grandfathered parking practice is fairly well documented, it does not seem reasonable to now change course 180 degrees and to require all development to either provide the requisite parking on site or to pay in lieu fees. In fact, the provision of onsite parking, for Embarcadero lease sites, is likely an undesirable feature as it would significantly reduce the availability of commercial lease space.

Based on the information provided above, it appears that the City's past practice has been to apply historic parking credits to new or remodeled projects on the Embarcadero. In fact, this practice has been memorialized through numerous City actions related to development applications on the Embarcadero and current lease holders are relying on this practice to develop current Concept plans for review by the Planning Commission and City Council.

It is also the case that not all Embarcadero development has been permitted through use of the grandfathering practice, and that staff has in fact worked with applicants in the past to show provision of parking or pay in-lieu fees. However, this is most likely due to the lack of evidentiary records related to parking, square footage and use.

It is staff's recommendation that the Planning Commission forward a recommendation to the City Council that both memorializes the practice of using grandfathered parking for lease sites along the embarcadero and recommends that the Council direct that Commercial parking requirements be addressed more holistically as part of the General Plan/Local Coastal Program/Zoning Code update.

ATTACHMENTS:

Exhibit A – Parking Study
Exhibit B – Letter, 801 Embarcadero
Exhibit C – 2007 Staff Report, 833 Embarcadero
Exhibit D – 2000 Memo, 833 Embarcadero
Exhibit E – 2008 Staff Report, 833 Embarcadero
Exhibit F – 2006 Staff Report, 501 Embarcadero
Exhibit G – 1993 Staff Report, 561 Embarcadero
Exhibit H – 2003 Staff Report, 899 Embarcadero

EXHIBIT A

City of Morro Bay, CA 801-833 Embarcadero Parking Study

Background:

833 and 801 Embarcadero are located within the Visitor Commercial zone exists along the bay front. Development has always been quite dense in this area, and many of the businesses in this area lack private parking lots. Instead, businesses rely on receiving parking credits for public street parking and public parking lots. This document catalogs historic parking requirements and parking credit allowances for the two sites.

Summary of Historical Parking Information for 801-833 Embarcadero:

1993, 833 Embarcadero, Bob's Seafood Fish & Chips Restaurant: A letter dated February 2, 1993 includes required parking calculations, as well as information about the actual provided parking. The letter states, "We have based the following calculations of the most intensive uses legally occupying the building since 1977 known to the City."

Parking Requirements:

Historical Summary

Bob's Seafood Fish & Chips Rest. (2,200 SF) (1 space/60 SF; 2200/60)	37.7 spaces
Outdoor Patio Dining for Bob's Seafood (400 SF) (1 space/30 SF; 400/30)	13.3 spaces
Bob's Desserts (360 SF) (1 space/250 SF; 360/250)	1.4 spaces
Retail Space, Ground Level (415 SF) (1 space/250 SF; 415/250)	1.7 spaces
Office Space, Upper Level (1,120 SF) (1 space/300 SF)	<u>3.7 spaces</u>
TOTAL PROVIDED SPACES	58 Spaces

Current Summary

Bob's Seafood Fish & Chips Rest. (1,970 SF) (1 space/60 SF; 1,970/60)	32.8 spaces
Outdoor Patio Dining for Bob's Seafood (400 SF) (1 space/30 SF; 400/30)	13.3 spaces
Retail Space, Ground Level (775 SF) (1 space/250 SF; 775/250)	3.1 spaces
Office Space, Upper Level (1,120 SF) (2 space/tenant)	<u>3.7 spaces</u>
TOTAL REQUIRED SPACES	53 Spaces

The calculation indicates a surplus of five (5) parking spaces available for future development. All of the calculations indicate use of the outdoor enclosed patio which appears to not be in use. By indicating in writing and formally amending your lease agreement to not use the patio for dining, then an additional 0.95 WEU's and 13 parking spaces could be provided.

In response to the number of seats indicated in your letter (190-200 seats), we researched the occupancy enforced when the building was constructed in 1971 which was based on an open seating (no fixed booths) floor plan. The occupancy permitted at this time was 1 person per 15 sq. ft., the same as the current building code.

EXHIBIT A

1998, 833 Embarcadero, Outrigger Restaurant, Barnacles Retail: A letter dated June 16, 1998 discusses the two previous mentioned letter from February 2, 1993. In regards to the June 16, 1998 letter, the writer states, "This memo is intended to provide a revised current summary of uses approved for operation as of June 16, 1998, and the remaining credit available to the site."

Business Name	Use	Square Footage	Parking Required	WEU Required
Outrigger	Restaurant	2,200* sf total 1,970* sf Cust. Serv	1/60 cust. serv. area = 32.8 spaces	2.06/1,000 sf of total area = 4.53 weu
Barnacles	Retail	775 sf	1/300 = 2.58	.15/1000 sf = .12 weu
TOTALS			35.38 spaces= 35 sp	4.65 weu
<i>Remaining Onsite Credit</i>			<i>23 spaces</i>	<i>7 weu</i>

Minor Use Permit No. 11-98 is on file to convert a 337 sq.ft. area within the existing building between the retail use and restaurant use to a sandwich shop. This area was previously recorded as a minor food service use known as Bob's Desserts. The re-establishment of a minor food service use within this area, with 168 sq.ft. of customer service area is as follows: .14 weu (.43/1,000 sf); and 3 parking spaces (1sp/60 sf customer service area)

* These numbers reflect the file record of the current gross floor area and customer service area of the restaurant. Previous determinations were based on floor area or seat counts whichever were greater. Current determinations for food service use are based on gross floor area for water and customer service area for parking.

1998, 833 Embarcadero, Minor Use Permit to Re-establish outdoor dining use, reconstruct a deck and ramp, and replace existing windscreen:

There are two planning conditions associated with this permit that relate to parking:

"8. In accordance with MBMC Chapter 17.44, a minimum of 4 spaces (520 sq ft. at 120 sq. ft./space) are required to serve the approved use. The site has a historical credit of 58 parking spaces. The required parking for the site is 44 spaces, with 16 spaces remaining as a credit (58-42). "

Between the 5 different uses at the site, the conditions state that the current demand is 42 spaces. The breakdown between uses was reported as follows: Outrigger – 32.8, Outrigger Open Dining Deck – 4.3, Jitter Joe's Sandwich Shop – 3. Hot Lick's Retail – 1.46, Vacant Office Space – 0.

EXHIBIT A

1999, Letter from Assistant Planner Scott Miskewycz regarding Parking Credits:

Business Name	Area	Type of Use	Parking	WEU
The Outrigger	1970 square feet	Restaurant	32.08 spaces*	9.17 weu*
No Name	336 square feet	Coffee Shop	3.00 spaces 1 space per 60 sf of customer service area	0.14 weu 0.43 weu / 1000 sf
No Name	415 square feet	Retail	1.38 spaces 1 space per 300 sf	0.06 weu 0.15 weu / 1000 sf
Totals			36.46 spaces	9.37 weu's

* - Determined from February 1993.

The historic credits allocated to the site are:

Parking Spaces: 58
Water Equivalency Units: 11.62

Thus, the remaining credits on site are:

Parking Spaces: 21.54
Water Equivalency Units: 2.25

March 20, 2000, 833 Embarcadero, CUP to allow conversion of site to a bed and breakfast on second floor with a handicap lift:

After the item was continued from the February 22nd meeting in 2000, the Planning Commission conditionally approved the project. Found in the minutes from the February 22nd meeting, it is apparent that some of the commissioners were concerned about parking. The staff report also claimed that parking near the site was "extremely limited given the density of the local businesses in the area." However, the staff report that was presented for the continuation of the item on March 20 states, "It was agreed that the parking is sufficient due to parking credited to the site." The staff and commissioners apparently decided that despite their concerns, the historical parking credits should be honored.

September 20, 2006, Letter regarding parking credits for 801 Embarcadero:

In a letter to Wayne Stuart dated September 20, 2006, Senior Planner Mike Prater passed on the following information:

"Pursuant to your request on behalf of your client Burt Calwell to inquire about grandfathered or historical parking credits calculations for the Fish Bowl property, I have reviewed the City's historical records and determine the building you intend to occupy has a historical parking credit of 79 spaces based on the previously uses and square footages approved via building permits.

I will also be filing this letter for future reference. I should mentioned, Morro Bay Municipal Code Section 17.44.020 Parking Facilities states:

Facilities Required

EXHIBIT A

For every structure erected or enlarged, and for all land devoted to a **new use**, and for any structure or land **changed to a more intensive use** that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion.

Therefore, any new uses that precede the requirement for on-site parking will be counted and subtracted from the 79 credited historical parking spaces and any balance would be required to be met under today's code.

I based the historic credits on the type of uses and square footages you provided. The site would therefore have a parking space credit based on the code requirement for these uses. For retail and office uses, the current code requires one (1) space per 300 square feet of gross building area, for restaurant uses (1) space per 60 square feet of customer area. Additionally, the site provides for 5 on-site spaces. Based on this information, the total parking credit for this site is 79 spaces."

September 15, 2008, 801-833 Embarcadero, Staff Report for Conference Center Concept Plan Proposal:

The following statements regarding parking were presented in the staff report:

"Parking

Since the project proposes to replace many of the existing uses (i.e. restaurant, commercial retail spaces and office space), there is no additional impact to parking than what exists now in the replacement of these uses. However, the added conference space and new boat slips generate more parking demand (87 spaces) and should be evaluated and measures put in place to ensure no significant impact occurs. The Planning Commission added a condition that requires the applicant to secure these 87 parking spaces during the times of any events conducted in the facility (i.e. weekdays and weekends during peak and non-peak season times including occasions when another event is held within the City)."

September 23, 2008, 801-833 Embarcadero, Conditional Use Permit UP0-212 for approval of Conference Center concept plan:

The following condition of approval was included in the permit document:

33. The report also claims that the site for the proposed conference center has an historic parking credit of 110 spaces. TRANSPORTATION/CIRCULATION

EXHIBIT A

- a. The applicant's shall secure the agreements with Bank of America and Rabobank or other private lots to maintain an additional 73 parking spaces.

Conclusion:

According to historical documents, it has been determined that 833 Embarcadero holds 58 parking credits, and 801 Embarcadero holds 79 credits. Conditional Use Permit UP0-212 for 801-833 Embarcadero implies that the site has a total of 110 parking credits (which is less than the sum of both separate addresses, $58+79 = 137$). Integration of the two sites for construction of the conference center will no longer occur, and therefore the sites should receive the individual credit historical documentation supports. 833 Embarcadero: 58 credits. 801 Embarcadero: 79 credits.

EXHIBIT A

EXHIBIT B

Wayne Stuart
MW Architecture, Inc
225 Prado Road Ste G
San Luis Obispo, Ca. 93401

September 20, 2006

RE: Parking Credits – 801 Embarcadero

Dear Mr. Stuart:

Pursuant to your request on behalf of your client Burt Calwell to inquire about grandfathered or historical parking credits calculations for the Fish Bowl property, I have reviewed the City's historical records and determine the building you intend to occupy has a historical parking credit of 79 spaces based on the previously uses and square footages approved via building permits.

I will also be filing this letter for future reference. I should mentioned, Morro Bay Municipal Code Section 17.44.020 Parking Facilities states:

Facilities Required

For every structure erected or enlarged, and for all land devoted to a **new use**, and for any structure or land **changed to a more intensive use** that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards of this chapter, a change, expansion or intensification of land use which would increase the number of parking spaces required as provided in this title shall be based only upon the number of spaces required for the change or expansion.

Therefore, any new uses that precede the requirement for on-site parking will be counted and subtracted from the 79 credited historical parking spaces and any balance would be required to be met under today's code.

I based the historic credits on the type of uses and square footages you provided. The site would therefore have a parking space credit based on the code requirement for these uses. For retail and office uses, the current code requires one (1) space per 300 square feet of gross building area, for restaurant uses (1) space per 60 square feet of customer area. Additionally, the site provides for 5 on-site spaces. Based on this information, the total parking credit for this site is 79 spaces.

If you need additional information please contact this department.

Sincerely,

Mike Prater,
Senior Planner

EXHIBIT C



CITY OF MORRO BAY PLANNING COMMISSION

August 20, 2007

AGENDA ITEM:
ACTION: _____

SUMMARY:

Mixed-Use Restaurant/Retail and
Lodging

CASE NUMBER:

UP0-153

ADDRESS:

833 Embarcadero

LEGAL DESCRIPTION

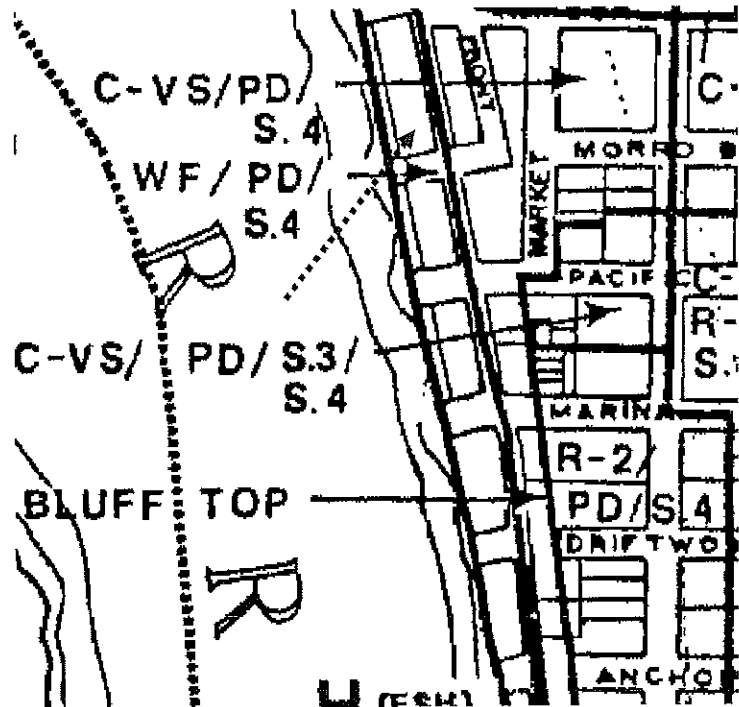
Lease Sites 87-88/87W-88W
Outrigger

APN

066-322-001

APPLICANT:

Violet Leage
833 Embarcadero
Morro Bay, CA 93442



ATTACHMENTS:

1. Findings, Exhibit A
2. Conditions, Exhibit B
3. Graphics/Plan Reductions, Exhibit C
4. Mitigated Negative Declaration, Exhibit D

PROJECT SUMMARY

The applicant is proposing to demolish and replace the existing restaurant, floating dock and remove the outdoor dining while remodeling the front half of the building while keeping a commercial lease space on the first floor and adding six-unit inns on the second floor. The project will require the partial removal of the existing building along Embarcadero and the complete removal of the restaurant and deck/floating dock. The pilings supporting the dock will be lifted out of the seabed to minimize seabed scouring. On the street level the proposed project will include approximately 1,316 square feet of commercial lease space, along with a restaurant, fish market and additional space for bathrooms, elevator and stairs, for a total street level area of approximately 5,800 square feet. On the upper level are six inn rooms comprising approximately 4,000 square feet. The total building area is approximately 9,833 square feet with a footprint of 5,803 square feet. The applicant will also construct the required lateral access way along the bay frontage; this lateral access will provide limited access until the neighboring site is developed to connect for safe ingress/egress. The applicant is requesting the project be considered a remodel in order to retain the historic parking credits. The previous uses required 31 parking spaces and the new uses would generate a parking demand of 31 parking spaces creating a project net balance. This approach has been approved for nearby remodels.

EXHIBIT C

833 Embarcadero
(UP0-153; Outrigger/Lcage)

Planning Commission
August 20, 2007

STAFF RECOMMENDATION

CONDITIONALLY APPROVE THE PROJECT by adopting a motion including the following action(s):

- A. Approve the Mitigated Negative Declaration (Exhibit D) in accordance with the applicable provisions of the California Environmental Quality Act (Public Resources Code 21000 et. Seq.), and adopt the Findings included as Exhibit "A", including findings required by the California Environmental Quality Act (CEQA).
- B. Approve Conditional Use Permit subject to the Findings and Conditions included as Exhibits A & B and the site development plans dated May 25, 2007.

ENVIRONMENTAL DETERMINATION

A Mitigated Negative Declaration was posted on June 11, 2007 and ended on July 20, 2007 with two comments submitted; one from Heritage Commission and one from Toxic Control Board. These comments have been addressed in the final mitigated negative declaration where new mitigation was added to address valid concerns. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Staff recommends approving the Mitigated Negative Declaration (Exhibit D) in accordance with the applicable provisions of the California Environmental Quality Act (Public Resources Code 21000 et. Seq.), approve the development plans based on the findings in Exhibit A and Conditions in Exhibit B.

BACKGROUND

The City of Morro Bay leases the site for visitor serving related uses that currently include a retail gallery, docks, restaurant, and coffee shop. The subject site is located in the waterfront (WF)/Harbor (H) districts and is zoned with a Planned Development (PD) Overlay. Pursuant to Section 17.40.030 of the Zoning Ordinance, all development on lands zoned with a PD Overlay requires conditional use permit approval. In cases where the site exceeds an acre, or the site is publicly owned, concept plans must be approved by both the Planning Commission and Council prior to final precise plan approval by the Planning Commission.

In 2000, the City issued a Conditional Use Permit for the conversion of the upstairs office/storage space into a 3-room Bed & Breakfast (B&B) establishment. That permit was voided when the previous applicant allowed the time limit to elapse. Subsequent to that permit, the current applicant resurrected the project and on April 5, 2004 the City approved a precise plan and issued a second permit to convert the upstairs space to a B&B. Since that time, the applicant has brought forward a new proposal to upgrade the entire site (if approved, then the B&B permit would be voided). During the review of the precise plan for the B&B the Planning Commission raised concerns about cleaning up the site with a master sign program, removing coin operated arcade toys, and opening view corridors to the maximum extent possible.

Conditions of approval required that the aggregate sign area on the site be reduced to not exceed ninety square feet. The applicant had partially complied with this condition by removing four (4) signs, but the remaining signs still exceed ninety square feet. A new master sign program will be proposed at the precise plan stage and conditions of approval will continue to require a maximum of ninety (90) square feet, unless the Planning Commission at the precise plan review decides to change it. Other conditions of approval required relocation of the existing doublewide bench along the Embarcadero such that it is at least five (5) feet from the front property line. The condition also required removal of a coin operated arcade toys such that no more than three (3) remained. The current proposal keeps all the arcade toys in

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the same location. Removal of the above ground transformer has already taking place and with this new proposal the staircase will be removed to open up public views.

Waterfront Design Guidelines

The Waterfront area of Morro Bay has been divided into five sub-areas that due to their own unique characteristics require different types of planning and design responses. The proposed project site is in Area 3: Embarcadero Visitor Area (from Beach St. to South St. between the bluff and waterfront). The City has adopted a Waterfront Master Plan, which contains Design Guidelines to assist in evaluating the quality of a design submittal. The overall objective and design intent is to enhance the positive characteristics while improving the access and parking situation. As new buildings are built and older ones rehabilitated, they should be developed to offer physical and visual access to identified public viewsheds and provide pedestrian amenities. In addition, new development should not significantly change the scale of the area. Criteria has been developed for all projects that fall within this architectural overlay for view corridors, building heights, site design and parking, architectural design character and compatibility as well as public access to the water.

Background Issues Specific to Area 3: Embarcadero Visitor Area

The public viewshed is defined as all areas of the bay, harbor, sandspit, and Morro Rock visible from the Embarcadero, the street-ends, public observation points, and the public right-of-way at the bluff top; but not including views from private property, businesses, or residences. The following are a list of concerns:

- Traffic congestion and inadequate parking for visitors and pedestrians, this inhibits exploration of the waterfront experience.
- A greater need for pedestrian access, space and amenities, including wider sidewalks, bicycle paths and increased opportunities for lateral access along the Bayfront.
- View protection at the street level by providing glimpses of the bay through buildings and along the bluff top to allow for visual access of the bay and rock.

Planned Development Process

In essence, when a project lies within the Planned Development Overlay (PD) zone, the PD Overlay elevates the level of review for all development to the Planning Commission via a conditional use permit process. For projects located on public property (i.e., the waterfront or State Park), or on private property exceeding one (1) acre, the PD Overlay requires a heightened review process involving concept plans and precise plans and action by both the Planning Commission and City Council. The proposed project is subject to this procedural requirement because it is located on public lease site property.

The PD Overlay also allows flexibility from strict application of zoning standards, such as density and setbacks, where a better design or public benefit would result. As stated in Section 17.40.030(A) of the Zoning Ordinance, the purpose of the PD Overlay designation is:

"to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This Overlay Zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit."

The applicant is seeking flexibility to increase the height from 17-feet to 25-feet and reduce the second story setback to 9-feet rather than the required 10-foot.

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Surroundings & Characteristics

Site Characteristics	
Site Area	~10,700 square feet
Existing Use	Visitor Serving
Terrain	Paved surface, gentle slope to bay
Vegetation/Wildlife	None
Archaeological Resources	No known resources

Adjacent Zoning/Land Use			
North:	Boatyard Complex	South:	Restaurant
East:	Vacant Lot	West:	Harbor

General Plan, Zoning Ordinance & Local Coastal Plan Designations	
General Plan/Coastal Plan Land Use Designation	Mixed Use/ Harbor
Base Zone District	Waterfront (WF)/ Harbor (H)
Zoning Overlay District	Planned Development (PD)
Special Treatment Area	S-4
Combining District	N/A
Specific Plan Area	Waterfront Master Plan
Coastal Zone	Yes – Original Jurisdiction

ANALYSIS

Development Standards The WF/PD/S.4 zoning standards and Waterfront Design Criteria are as follows:

Development Standard	Proposed Plan	Ordinance Requirement
Setbacks: Rear: Side: Interior Side: Exterior Side: Front:	35' 0' 0' over 5' average with 3' narrowest point & 9' second story	10' 0' 6' 5' average first floor 10' second
Lot Coverage/Bulk & Scale	54% first floor 69% second	70% first floor with 70% of the first floor available to the Second
Building Height	25' with roof pitch of 4/12	25' maximum with 80% of all roofs having a minimum 4/12 pitch under PD Overlay so long as the viewshed is improved, or not diminished.
View Corridors	27' corridor (22' required area)	50' or more 30% min. view corridor
Frontage Improvements	8' sidewalk	8' or more sidewalks; street amenities
Landscaping	Street trees & planters	Section 17.48.290
Parking/Driveways	Net Balance of 31 parking spaces (via credits) Demo/replace restaurant & docks remodel retail spaces Parking Requirement Met	1/300 retail = 5 spaces 1/ each lodging room = 6 spaces + 1/ each 10 rooms = 1 Total of 7 spaces 1/60 restaurant = 17 spaces 1/35 linear feet of Boat Slip = 2 spaces

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Site Plan & Design

Uses and parking

The existing building consist of a 3,667 square foot restaurant space with 280 square feet of outdoor dining, one retail space of 1,510 square feet, and 1,510 square feet of storage/office space above the retail portion. The applicant proposes to demolish most of the site, however retaining a large portion of the retail structure, and replace the site with the same uses on the ground floor while adding a mixed-use element of lodging upstairs. The first floor would consist of 1,316 square-feet of retail space a slight reduction of 200 square feet to accommodate a wider sidewalk. Behind the retail space would be all new construction containing the restaurant space of 755 square feet of cooking and prep area, a new take out fish market of 168 square feet, 970 square feet of dining area, and other miscellaneous elements including restrooms, mechanical, elevators, etc. The outdoor dining area along with the space occupied by planters and staircase will be removed to create a public view corridor and public plaza seating area. The second floor will be all new construction consisting of 6 hotel units ranging from 415 square feet to 640 square feet. The building will be two-stories and requesting permission to increase the height to 25 feet above average natural grade. The water portion of the site will include a public lateral accessway and new gangway to a new side tie dock for two boats.

The site currently does not provide any parking on-site. The applicant has refined their proposal to create a balanced parking demand by reducing the retail space, removing the outdoor dining area, maintaining a side tie dock and reducing the restaurant space. If the site is considered to be remodeled and MBMC Chapter 17.44 is applied to all the existing and new uses where all square footages are calculated to determine the parking analysis demand, then a total of 31 parking spaces are required for the existing configuration of uses and 31 parking spaces are also required for the new configuration of uses. This is considered a net balance via credits. By far, the issues of parking and viewsheds are the greatest area-wide concern and the issues that draw the most complaints from residents and visitors. Parking for lodging patrons may find it difficult to reasonably park near their lodging unit. The applicant is evaluating several scenarios to ease this concern including valet parking, off-site agreement, and others. Since this proposal is starting the Concept Plan stage these scenarios can be addressed later unless the Planning Commission is considering requiring on-site parking. The viewshed concern is addressed by opening up a 27-foot wide corridor.

Architecture

In staff's opinion the architectural design and character of the proposed mixed-use building is in keeping with the fishing village community and will add to the ambiance of the waterfront area. At the ground floor level, the facade is set back from the sidewalk to give a pedestrian feel with the second floor setback an additional 9 feet. Courtyards and balconies help define the shape and the use of materials is seen in the area. The second floor windows offer views of the Bay and overlook the plaza; entries into the retail spaces are from the courtyard. The wall surfaces are horizontal shiplap siding, with multilevel trim and built-up fascias.

Public Views, Access, and Significant Benefit

The WF plan requires that public views be protected and enhanced by new development. The applicant is proposing a 25-foot high structure that will increase views of the Bay. The WF plan requires a 30% view corridor for lots greater than 50 feet in width. The proposed project will incorporate amenities such as a public courtyard with benches, architecturally interesting building, widening of the sidewalk.

Although the view corridor requirement specifies a liner dimension the guidelines allow the ability to offset this requirement provided the volume of space is increased. The examples given in the WF plan

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have been simplified for ease of illustration that represents a boxy structure in exchange for unobstructed views. The applicant has followed the unobstructed view criteria by providing a 27-foot wide corridor, however hopes they have achieved an interesting building form and not represented a boxy structure. Under this requirement the proposed project meets the required view corridor.

Height

The Waterfront Master Plan allows for an increase in height above the 17-foot limit via a Conditional Use Permit in the Planned Development Overlay zone. The PD zone allows the Planning Commission to approve a 25-foot maximum height if significant public benefit can be achieved. The Commission must make the finding that the overall viewshed characteristics will be improved or, at a minimum, not diminished from the public viewing locations established within the WF plan. Additional requirements put on the project are as follows:

1. 80% of the roofs for both one and two stories portions shall be sloping with a minimum 4 in 12 pitch;
2. Incorporate view corridors between the buildings;
3. Encourage provision of public (non-customer) viewing areas of the bay and waterfront;
4. Regardless of any findings for significant public benefit, the maximum height cannot exceed 25 feet.

This particular proposal offers two of the three public benefits identified in the Waterfront Master Plan including: providing 4:12 pitch roofs, including elevator shaft not to exceed maximum height limit (at 25-feet), incorporating a public plaza within the twenty-seven (27) foot wide view corridor, and restrooms will be available to the public during business hours. Based on these identified public benefits staff believes the project meets the intent to increase the height limit over 17-feet. The decrease in one foot from the second floor setback may be easily achieved with further refinements as the project moves forward in the review process.

Additional benefits include creating wider sidewalks to increase pedestrian circulation, which is a much-needed public benefit. Creating a courtyard within the project, adding street trees, and creating architectural interest to a structure enhances the physical and visual experience of the Embarcadero and is a definite positive benefit along the Embarcadero. Additional lodging opportunities in the heart of the Embarcadero allows people to enjoy the waterfront after hours and see more of what Morro Bay has to offer and can add to the experience of visitors.

Waterfront Design Guidelines Consistency

This project is consistent with the waterfront design guidelines. The applicant has prepared photographs indicating how the new project will relate to its surroundings. The project meets the area for view corridor. Lateral access will be provided, however limited public access will occur until the neighboring property connects to the boardwalk.

The applicant is requesting permission to extend the maximum building height to allow 25-foot maximum height that is permitted by the guidelines provided there is a public benefit provided by the project and that the overall viewshed characteristics will be improved or at a minimum not diminished from the public viewing locations. Staff is recommending the second floor setback be addressed to comply with the 10-foot requirement.

Previous Conditions of Approval

The coin operated arcade toys are requested to remain, as they exist today. The previous approval requested the removal of one toy to provide greater public space and the double bench moved to widen the sidewalk in that area. The bench has been moved back and the proposal provides for ample public

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seating. Other conditions required the removal of signs to not exceed 90 square feet in total sign area. This topic will be further discussed at the Precise Plan stage.

POLICY AND CONSISTENCY ANALYSIS

General Plan and Coastal Land Use Plan:

Applicable Planning Policies	Consistency Analysis
<p><u>Safety Element:</u></p> <p><u>Program S-1.5 & 8.2:</u> structural stability and erosion control.</p> <p><u>Program S-6.1:</u> soils report required.</p> <p><u>Program S-3.3:</u> smoke detectors required.</p> <p><u>Programs S-7.1-S-7.4:</u> Rainy Season Grading Restrictions, Sediment Basins, Erosion/Drainage Control</p>	<p>A standard condition of approval has been incorporated into the project pertaining to soils report, grading, drainage and erosion control.</p> <p>Smoke detectors will be required of the project.</p> <p>A standard condition of approval has been incorporated into the project pertaining to grading, drainage and erosion control.</p>
<p><u>Noise Element:</u></p> <p><u>Program N-1.3:</u> "New development of noise sensitive land uses shall not be permitted in areas exposed to existing or projected future levels of noise from transportation noise sources which exceed 0 dB, Ldn, CNEL unless the project design includes effective mitigation measures to reduce noise in outdoor activity areas and interior spaces to or below the levels specified in Table N-4."</p> <p><u>Program N-1.4</u> Stationary noise sources.</p> <p><u>Program N-4.2-4.3</u> New development shall not create a new transportation or stationary noise source.</p>	<p>The project site is not exposed to significant transportation or stationary related noise sources. Standard ordinance provisions governing construction hours ensure that impacts on surrounding properties from construction noise will be minimized.</p> <p>The proposed use will not create a new transportation or stationary noise source.</p>
<p><u>Housing Element:</u></p> <p><u>Policy H-7:</u> Inclusionary requirement</p> <p><u>Policy H-19:</u> Energy Efficiency requirement</p>	<p>The project does not meet the threshold of 8-unit development. However, an impact fee of 30 cents a sqft. is collected for all new development.</p> <p>The project will be required to meet State energy requirements.</p>
<p><u>Circulation Element:</u></p> <p>Sidewalks: Policies C-1-C-8</p> <p>Bikeways: Policies C-9-C-12</p>	<p>Circulation element policies require standard curb, gutter and sidewalk improvements to adjoining</p>

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<p>Streets: Policies C-13-C-20 Parking: Policies C-21-C-26 Transit: Policies C-27-32 Harbor: Policy C-33 Utilities: Policies C-34-C-38</p>	<p>public right-of-way as well as in-lieu payment for the project's pro-rata impact on area roads and intersections.</p>
<p>Program LU-15.1: The Zoning Ordinance should encourage flexibility in the application of its development standards related to height, setbacks, and building coverage. In order that all of these development characteristics work together, rigid enforcement of any one or all of them can result in unimaginative development.</p> <p>Program LU-37.8: Public rest areas should be incorporated into the street rights-of-way in Downtown and the Embarcadero. These areas should consist of benches, trash receptacles, drinking fountains, landscaping, information signing or kiosks and decorative paving and planters.</p>	<p>The applicant is seeking a height extension.</p> <p>The proposed project is providing wider sidewalks and benches and public courtyard.</p>
<p><u>Land Use Policies (LUP Chapter II)</u></p> <p><u>Visitor-Serving:</u></p> <p>"The visitor-serving land use category is especially important to the City since tourism is a significant contributor to the local economy. This category encourages concentration of tourist-intensive uses at major destination points in the City or at locations easily accessible to travelers along State Highway One. Visitor-serving uses that should be developed in those areas designated as such are hotels/motels, overnight RV facilities, restaurants, gift shops, goods and supply stores, commercial recreation and other uses typically found to accommodate tourist needs and activities."</p>	<p>The project provides a mixture of retail commercial, visitor serving uses on the ground floor.</p> <p>The proposed Plan incorporates 6 lodging units on the second floor.</p>
<p><u>Access & Recreation Element & Shoreline Access & Recreation /Coastal Access & Recreation Policies (LUP chapter III)</u></p> <p><u>General Policies 1.01-1.07A; Access & Recreation & AR-9</u></p> <p><u>Policy 1.20 & AR-20:</u> Lateral public access to the waterfront required across the bay ward portion of the site unless determined to be infeasible.</p> <p><u>Policy 1.26 & AR-25:</u> "Lateral public access</p>	<p>The project is on the bay ward side of Embarcadero therefore lateral access is required.</p> <p>The project is on the bay ward side of Embarcadero</p>

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<p>along the waterfront revetment shall be provided in all new developments, rehabilitation or addition projects consistent with Policy 1.20 with public safety needs and the need to protect public rights, rights of private property held by leaseholders, and natural resource areas from overuse.”</p>	<p>the waterfront revetment does not need repairs however the dock and gangway will be replaced.</p>
<p><u>Coastal Visitor-Serving Facilities Policies (LUP Chapter IV)</u></p> <p><u>General Policies 2.01-2.02</u> <u>Policy 2.03:</u> “... the Embarcadero between Beach Street on the north, Main Street on the east, Olive Street on the south and the waterfront area on the west, shall be considered a mixed commercial fishing and visitor serving recreation use area. With regard to the siting of new developments, priority shall be given for coastal-dependent uses located on the west side of the Embarcadero.”</p> <p><u>Policy 2.08:</u> provision of off-street parking is sufficient to serve the development’s peak demands.</p>	<p>The project is located on the west side of the Embarcadero and primarily for visitor serving use.</p> <p>The applicant is working on a parking plan to provide hotel guest the opportunity to drop-off and pick-up luggage.</p>
<p><u>Public Works (LUP Chapter V)</u></p> <p><u>Policy 3.01:</u> The City of Morro Bay shall approve future growth in conjunction with water and sewage treatment availability.</p> <p><u>Policies 3.02-3.06:</u> In the City of Morro Bay water allocation, the City shall insure the following uses receive priority for available water and wastewater treatment facilities: Commercial Fishing / Agriculture Coastal-Dependent Land Uses Coastal-Related Land Uses Public Services and Basic Industries Public Recreation Commercial Recreation Visitor-Serving Land Uses Residential and other Commercial and Industrial Land Uses</p> <p><u>Policy 3.07:</u> Water-saving devices shall be required in new developments.</p>	<p>The project is consistent with the City’s growth projections and adequate water and sewer is available.</p> <p>The project is a visitor serving retail use and will receive priority.</p> <p>The project as conditioned will be required to provide water saving devices.</p>
<p><u>Archaeology (LUP Chapter VI)</u></p> <p><u>Policy 4.01- 4.08 & LU-82:</u> reconnaissance, discovered, and protection of significant archaeological and historic resources to the greatest extent possible.</p>	<p>The entire project is located on fill placed in connection with creation of the Embarcadero therefore archaeological resources are not anticipated. However. A standard condition of</p>

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	approval has been incorporated into the project, which specifies procedures in the event archaeological resources are uncovered.
<u>Energy/Industrial Development (LUP Chapter VII)</u> <u>General Policies 5.01-5.22:</u> more specifically related to the PG&E property.	Not applicable
<u>Coastal Agriculture (LUP Chapter VIII)</u> <u>General Policies 6.01-6.09:</u> prime and non-prime soils.	Not applicable
<u>Commercial Fishing/Recreational Boating Policies (LUP Chapter IX)</u> <u>General Policies 7.01-7.08</u> <u>Policy 7.06A:</u> "The Embarcadero...shall be considered a mixed commercial fishing and visitor-serving area. Public access and recreational opportunities shall be maximized along the waterfront consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse. Public access from the nearest public roadway to the shoreline and along the bay front shall be provided..."	See above discussion.
<u>Diking, Dredging, Filling and Shoreline Protection Policies (LUP Chapter XI):</u> <u>General Policies 10.01-10.11</u>	Work associated with the floating dock and gangway will be completed as part of this project.
<u>Environmentally Sensitive Habitat Policies (LUP Chapter XII)</u> <u>Policy 11.08:</u> "Pollutants such as chemicals, fuels, lubricants, raw sewage and other harmful wastes generated during commercial or recreational boating activities shall be prohibited from being discharged into the bay."	The project site is not within a designated ESH area; however, it is adjacent to the bay. Conditions of approval have been added that address polluting the bay.
<u>Visual Resource & Scenic Highway Elements & Coastal Land use Plan Visual Resource Policies (LUP Chapter XIII)</u> <u>Policy 12.01 & VR-2:</u> "The scenic and visual	The attached Exhibits provide evidence that the

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qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas..."

Policy 12.02 & VR-2.2: "...Specific design criteria shall be established... (a) building height/bulk relationship compatible with existing surround uses; (b) landscaping to restore and enhance visually degraded areas... (c) preservation and enhancement of views of the ocean, bay, sand spit and Morro Rock..."

Policy 12.07 & VR-6: The City shall establish a policy for undergrounding of utilities in connection with new development or major redevelopments.

Program VR-4.3-4.4: provision for street trees that are adequately placed, species and height

project will be consistent with Policies 12.01 & 12.02. Additionally, standard Planning Division conditions of approval and mitigation measures have been incorporated into the project ensuring compliance with design guidelines included in the Waterfront Master Plan.

The project as conditioned will be required to underground its utilities.

The project as conditioned will provide 2 street trees to be identified by Public Works that does not exceed 20 feet in height.

Existing Land Uses surrounding the project site are The Boatyard building (retail, gallery, Chamber uses), the harbor, Embarcadero Grill and retail. The proposed uses will not conflict with existing surrounding uses and are consistent with the General Plan and Local Coastal Program. The project is not expected to conflict with any policies in the applicable elements of the General and Coastal Land Use plans. Engineering Conditions are included to insure that the project does not conflict with General Plan Program LU-58.1/LUP Policy 11.08 which states "Pollutants such as chemicals, fuels, lubricants, raw sewage and other harmful wastes generated during commercial or recreational boating activities shall be prohibited from being discharged into the bay." Conditions 20 & 24 require the applicant to install oil-water separator and/or drainage inlets to prevent petroleum hydrocarbons and sediment from draining to the bay.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on August 10, 2007 and all property owners of record within 300 feet and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

The proposed project would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan, Local Coastal Plan, and Waterfront Master Plan in that the public benefit provided to offset the requested height exception is warranted and creates a better project. A Mitigated Negative declaration has been prepared and is recommended for approval on this project.

Report prepared by: Mike Prater, Planning Manager

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EXHIBIT A: FINDINGS

UP0-153, A request to demolish the existing Outrigger Restaurant and construct a mixed-use project with the first floor as restaurant, retail commercial comprising of one lease space of 1,316 square feet. The second floor would consist of six lodging units approx. 2,910 square feet.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-153 is subject to a Mitigated Negative Declaration based on aesthetic, hazardous and hydrology issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the mixed use commercial retail and lodging building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the mixed use commercial retail and lodging building will provide additional public benefit.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the mixed use commercial retail and lodging building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual accessibility to the bay and rock while increasing retail and lodging facilities:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project does not exceed the maximum height allowed and interesting articulation breaks up the bulk and scale.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public courtyard, providing architectural interest that fits with the Embarcadero area, incorporating a (27) foot wide view corridor adjacent to the building, and including public restrooms.
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.
 - e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the new building will open up to the passing pedestrian via large entry doors.

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- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stone veneer, new vertical windows, and wood siding with planter boxes.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public courtyard.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

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EXHIBIT B: CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated August 20, 2007 for the projects depicted on the attached plans labeled "Exhibit C" dated May 25, 2007 and on file with the Public Services Department, as modified by these conditions of approval.
2. Changes: Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
3. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
4. Compliance with Conditions: By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
5. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the Zoning Ordinance, Beach Street Specific Plan, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
6. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
7. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
8. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
9. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view in a manner approved by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

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833 Embarcadero
(UP0-153; Outrigger/Leage)

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10. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
11. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Planning & Building. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
12. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
13. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Planning & Building.
14. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.

PLANNING CONDITIONS

15. Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
16. Signage: Prior to installation of any sign on-site, a sign program shall be approved by the Director in conformance with MBMC Chapter 17.68.
17. Soils Report: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

PUBLIC WORKS CONDITIONS

18. Off-Site Frontage Public Improvements: Are required as set forth in MBMC Section 14.44, Circulation Element III-7, and for provision of pedestrian clearance and safety. From the face of curb, the site's Embarcadero frontage shall have a minimum clear 8' wide paved sidewalk.

EXHIBIT C

Frontage improvements in need of repair or which do not meet City standards shall be replaced.

19. Traffic Impact Fee: \$4,844. Pursuant to the Circulation Element of the General Plan, a developer is responsible for circulation system improvements on the basis of the development's impact. Prior to building permit issuance a fee shall be paid proportionate to the percentage increase in peak traffic flows at the Highway 41 Main Street, Radcliff Main Street and Quintana Morro Bay Boulevard intersections which have an identified cost of \$980,000, \$1,000,000, and \$585,000 respectively for construction of future intersection and channelization improvements. The \$4,844 fee is proportionate to the increase in peak traffic flows as determined by the Engineering Division per Institute of Transportation Engineers Handbook and existing peak hour data. Approximately 20% credit was given for the existing uses.
20. Oil-Water Separator: To reduce pollution to bay and ocean waters, the applicant shall install an oil-water separator/isolator on site between all drainage water inlets and the street gutter. Inlet and/or outlet structure design shall address silt and hydrocarbon containment and be approved by the City.
21. Work & Encroachment Permits: Encroachment permits are required for non-standard encroachments or prior to construction in or use of land in the City right-of-way.
22. Construction Dumpster: If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit in the right of way area.
23. Repair & Replacement of Public Improvements: Prior to project completion the Applicant shall repair curb, street, sewer line, water line, or any public improvements, which were damaged as a result of construction operations for this project.
24. Sediment and Debris Control: Control measures shall prevent sediment or debris from entering the City right of way, roadway, or adjacent properties. Such control also serves as an aid in meeting the National Pollutant Discharge Elimination System (NPDES) Permit Program as Authorized by the Clean Water Act and administered by the State of California.
25. Public Improvements and Utilities: The project plans shall indicate all existing improvements, trees and utilities and shall make note of any proposed improvements or modifications.
26. Drainage: Route roof and paved surface storm water run off to the street flowline.
27. Water Pressure Reducer: a pressure reducer shall be installed on site.
28. Sewer Backwater Valve: a sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project.

FIRE DEPARTMENT CONDITIONS

29. Building and Address Identification: Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a ½ " stroke.
30. Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and site plan for updating Fire Departments response books

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31. Fire Extinguishers: The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum floor travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a maximum of 3,000 square feet of floor area surveyed. Fire extinguishers listed above, will be required on site during construction.
32. Automatic Fire-Alarm Systems: Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.60.200, in all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.
33. Refuse Containers: Trash enclosures must comply with the 1994 Uniform Fire Code Article 1103.2.2. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.
34. Fire Alarms: For fire alarm systems employing automatic Fire detectors or waterflow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
35. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UBC Standard N0. 9-1.

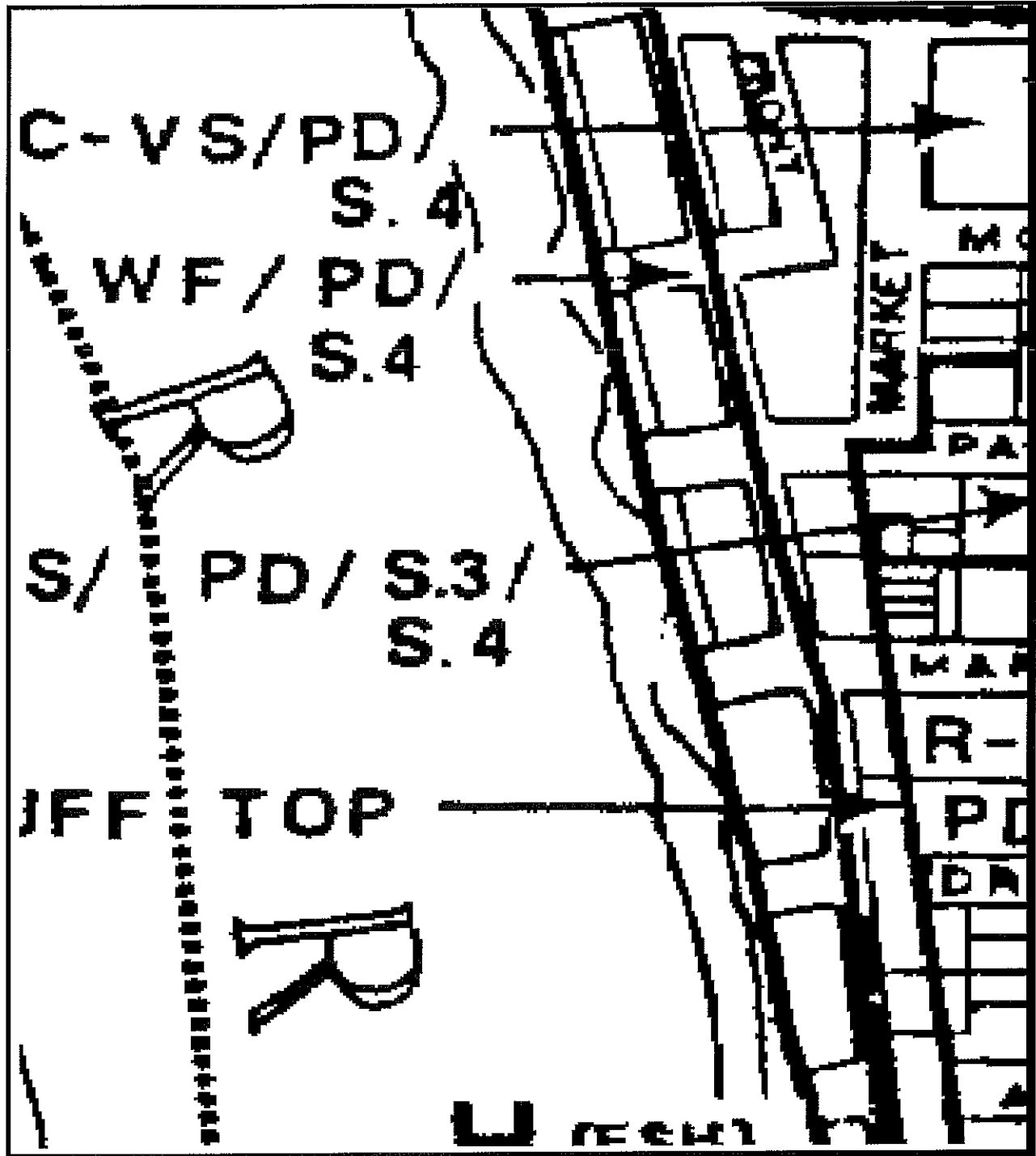
CONCEPT PLAN CONDITIONS

36. The applicant shall revise the second floor setback to comply with the 10-foot setback requirement.

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Planning Commission
Violet Leage

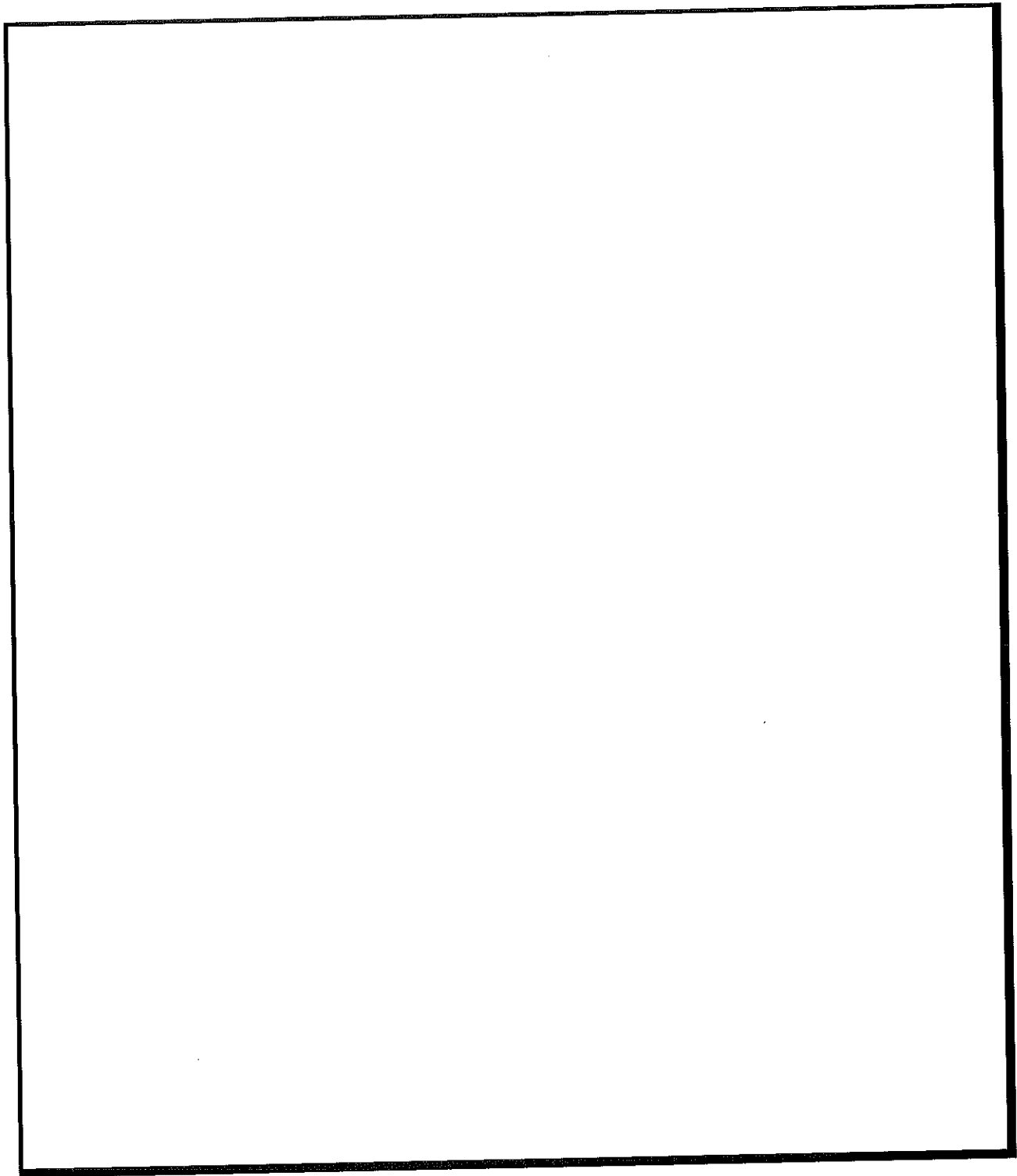


ZONING MAP

EXHIBIT C

833 Embarcadero
(UP0-153; Outrigger/Leage)

Planning Commission
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Planning Commission
Violet Leage

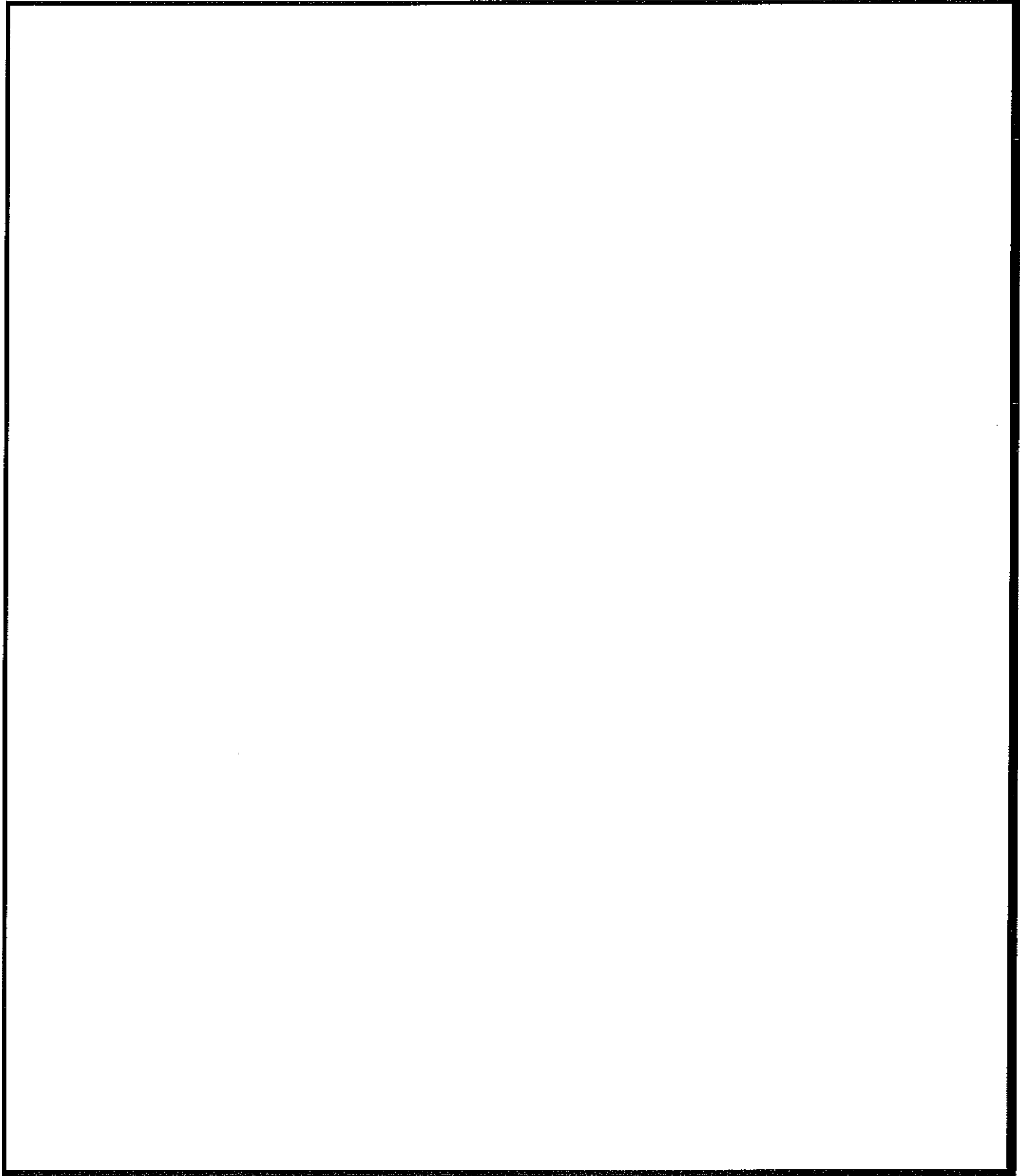


1st Story
FLOOR PLAN/SITE PLAN

EXHIBIT C

833 Embarcadero
(UP0-153; Outrigger/Leage)

Planning Commission
August 20, 2007



**Planning Commission
Violet Leage**

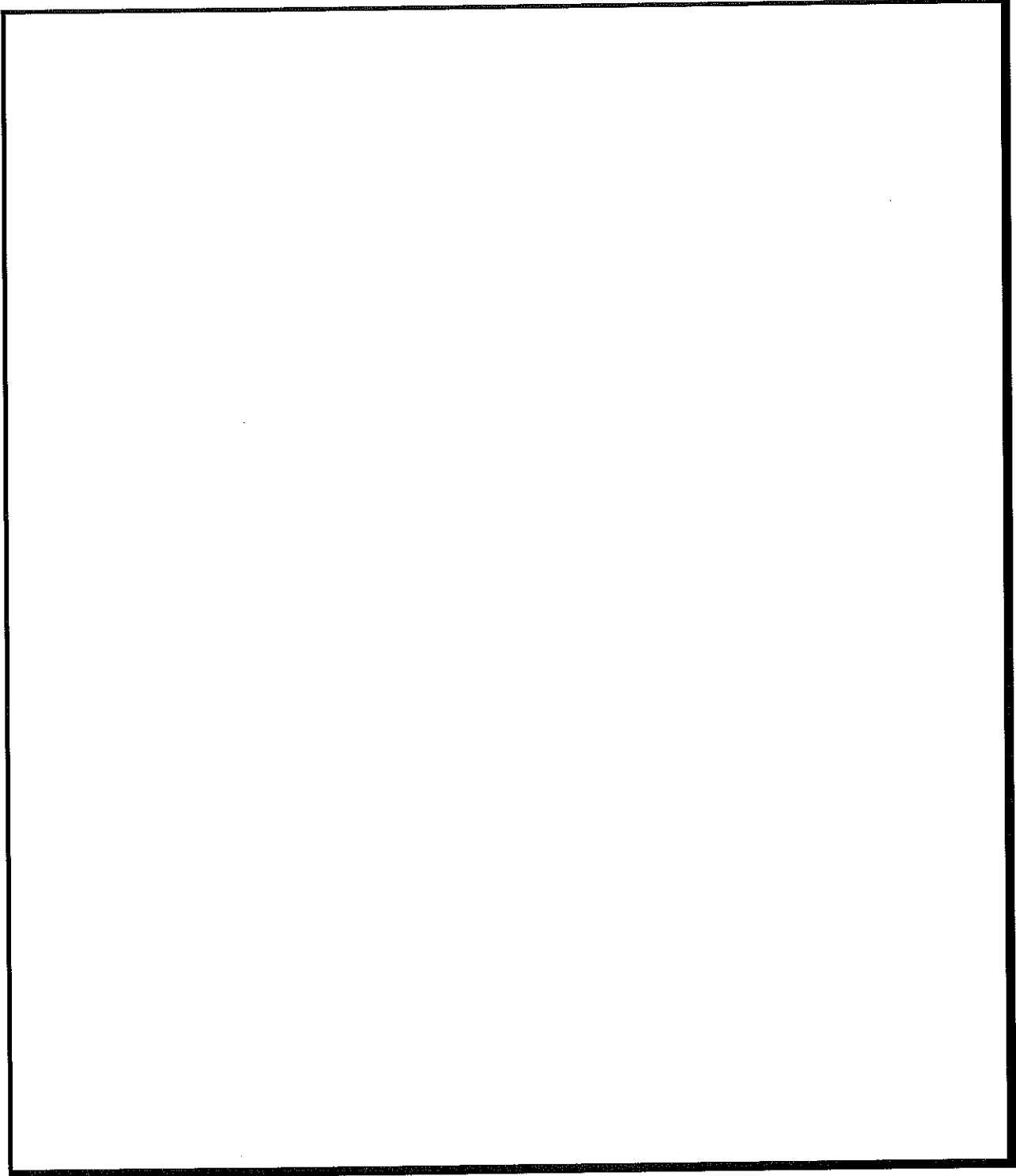


**2nd Story
FLOOR PLAN**

EXHIBIT C

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Planning Commission
August 20, 2007



**Planning Commission
Violet Leage**

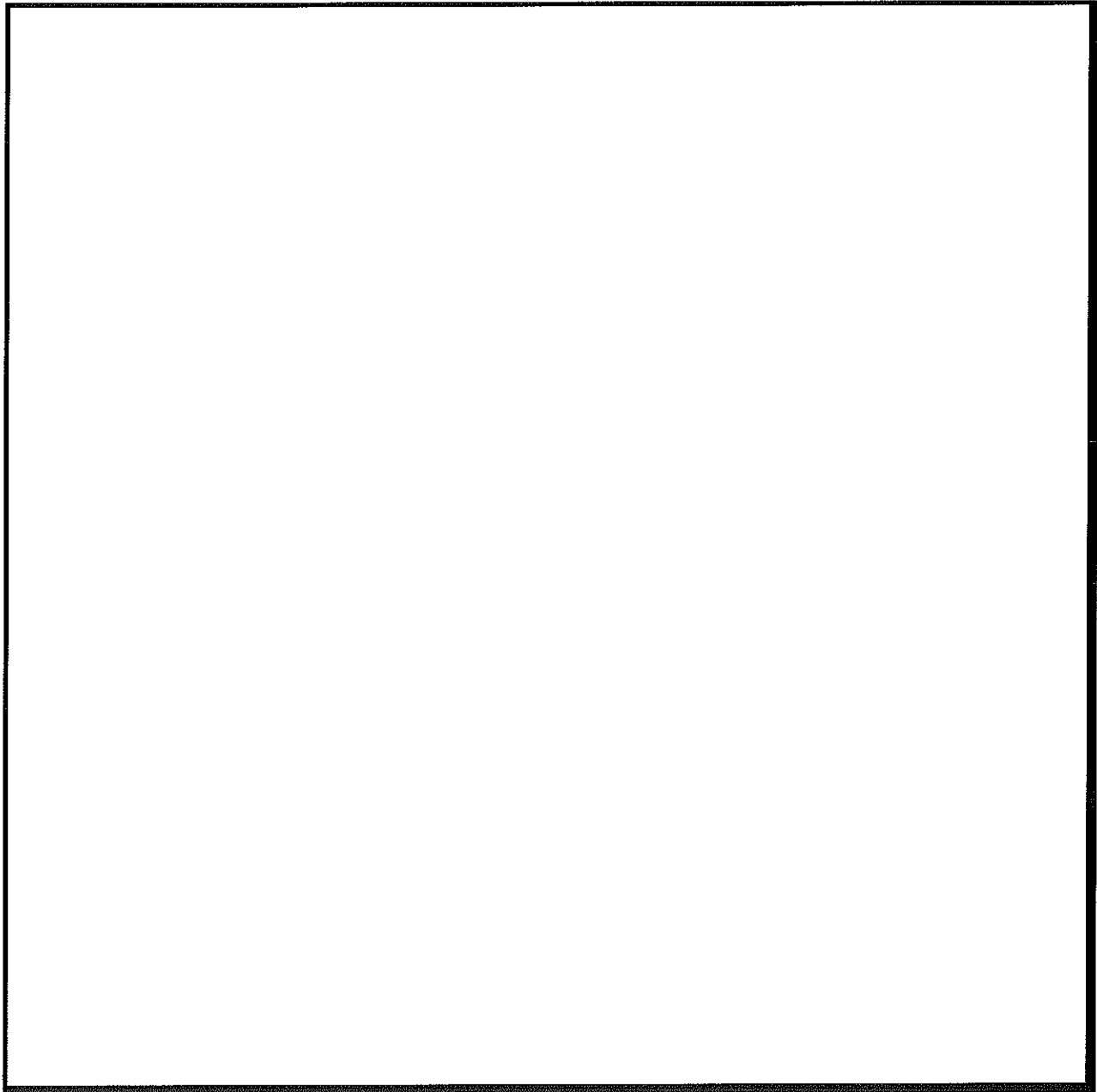


ELEVATIONS

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833 Embarcadero
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**Planning Commission
Violet Leage**



AERIAL/PHOTOS

PLANNING COMMISSION
MEMORANDUM

TO: PLANNING COMMISSION
DATE: March 20, 2000
FROM: DAN LONG, ASSISTANT PLANNER
SUBJECT: 833 Embarcadero CUP 36-99 (CONTINUED FROM 2/22/00)

PLEASE BRING A COPY OF THE PREVIOUS STAFF REPORT

RECOMMENDATION

Approve Case No. CUP 36-99 based on the finding contained in the staff report dated February 22, 2000 and conditions attached to this memorandum.

SUMMARY

On February 22, 2000, Planning Commission reviewed and discussed the proposal at 833 Embarcadero and motioned to continue this public hearing to March 20, 2000. After evaluating the project and debating the issues surrounding the case, Planning Commission consensus was in favor of the project. Staff asked for direction from the Planning Commission on three (3) key issues prior to making a final recommendation. These issues were signage, a proposed handicap lift, including the height of the proposed structure and finally the use of parking credits to serve the new use. The parking and handicap access were resolved and are conditioned as attached to this memorandum to reflect the consensus reached on these two issues. Regarding the signage issue the Planning Commission directed the applicant and master leaseholder, prior to approval to develop a master sign program for the site and add other site improvements. The applicant has submitted a plot plan with the new proposed signage and other improvements on the site including the removal of the pole sign in order to increase the maximum aggregate area of signage allowed. The other improvements include the relocation of the utility box to the tower area (under the stairs) and removal of all the coin operated machines. (Note: since agreeing to this at the PC meeting February 22, 2000 the applicant has indicated a desire to further discuss this issue.)

The applicant has submitted the additional information requested. Staff has reviewed proposed signs and improvements and recommends the project be approved, based on the findings contained in the Conditions of Approval attached with this memorandum and analysis contained in the Staff Report dated February 22, 2000.

DISCUSSION

The public hearing for this project was continued from February 22, 2000 to March 20, 2000 with the following direction for staff and the applicant:

Exhibit D

2. Public Benefit	<p>The applicant has proposed to do numerous activities, which may constitute an acceptable public benefit. First, the existing pole sign will be removed allowing for additional improved signage for the site. The existing utility box adjacent to the existing stairwell will be relocated under the stairs in order to increase the view corridor, which will also add to the aesthetics of the site.</p> <p>There was consensus by Planning Commission that removal of the coin operated machines was desirable. The applicant and master leaseholder ask that the coin operated machines not be removed. The applicant would like to relocate the machines on the site. They feel the Embarcadero has few attractions for young children, and by moving them back it would allow for the children to enjoy the Embarcadero as the adults do. With proper screening and placement this may be successfully accomplished. However, since it was agreed to by the applicant, to remove the machines at the previous meeting, the conditions are consistent with what was agreed upon at the Planning Commission meeting of February 22, 2000.</p>
3. Handicap Lift	<p>At the previous meeting it was determined that the proposed handicap lift needs to be expanded and altered. The applicant has moved the lift towards the street allowing for more clearance of path. A 30-square foot (6' x 5') landing pad now facilitates the second story for those who will utilize the lift. Also, as noted previously, the utility box will be behind the lift, under the stairs, hidden from public view.</p> <p>The top portion of the lift incorporates clear glass windows, which will improve the visual element. Below the window is the proposed frame that will facilitate the replaceable signs.</p> <p>The railing that connects the lift to the main structure has not been changed. It was suggested that glass paneling be utilized in order to obstruct less of the view. No plans show the use of glass paneling for this portion of the railing</p>
4. Parking	<p>It was agreed that the parking is sufficient due to parking credited to the site.</p>
5. New Information	<p>After the Planning Commission Meeting on February 22, 2000, the applicant communicated to staff that in addition to the other site improvements mentioned above, he would also like to remove the existing benches along the street and replace them with non-permanent street furniture such as tables and chairs. Staff has not conditioned the project for the removal of the existing benches only for the removal of the coin operated machines.</p>

CONCLUSION

The applicant has submitted the additional information requested by Planning Commission. Staff review of the resubmitted plans shows that the applicant has fulfilled the requirements of Planning Commission. The one function that has not been shown on the plans that was asked for by Planning Commission was the removal of the coin operated machines. Again, the applicant feels the machines provide a source of entertainment for the children that visit the Embarcadero, which at this time is limited.

ATTACHMENT A

FINDINGS

CASE NO. CUP 36-99
833 Embarcadero

Convert a storage and office facility into 3 Bed and Breakfast units on the second story and construct a handicap lift up to the second story

Staff recommends that the Planning Commission make the following Findings:

1. That for the purposes of CEQA, Case No. CUP 36-99 is Categorically Exempt, Class 1 (CEQA Guidelines Section 15301(a and e))
2. As conditioned, the project will not be detrimental to the health, safety, comfort, and general welfare of the persons residing or working in the neighborhood because this use is as an allowable use within the zoning district applicable to the project site and said project will be constructed in accordance with all applicable project conditions and City regulations as indicated in the attached memorandum dated March 20, 2000 and the staff report dated February 22, 2000.
3. As conditioned, the project will not be injurious or detrimental to property and improvements in the neighborhood because said project is consistent with City regulations applicable to this development as indicated in the attached staff report to the Planning Commission dated March 20, 2000 and the original staff report dated February 22, 2000.
4. As conditioned, the project will not be injurious or detrimental to the general welfare of the City because said project is permitted within the WF zoning district. All work will be constructed in accordance with all applicable project conditions and City regulations as indicated in the attached memorandum dated March 20, 2000 and the staff report to the Planning Commission dated February 22, 2000.
5. The project is in conformance with the General Plan and the certified Local Coastal Land Use Plan as indicated in the attached memorandum dated March 20, 2000 and the staff report to the Planning Commission dated February 22, 2000.
6. The project is an allowable use in its zoning district and is also in accordance with the certified Coastal Land Use Plan for the City of Morro Bay, and is in conformance with the coastal access policies of chapter 3 of the California Coastal Act.
7. The project has been determined a minor alteration to an existing building on a developed site, for the purposes of applying the Waterfront Design Guidelines adopted for the Embarcadero area. As conditioned, the general concepts of the Waterfront Design Guidelines have been met relating to height, maintaining views and use of complimentary building materials and signs. However, it has been deemed infeasible to require major improvements to existing sidewalks and lateral accessway as the associated cost would far exceed the project cost. When a major redevelopment of the site occurs, all the the Waterfront Design Guidelines standards will be applicable.

Exhibit D

Planning Commission
March 20, 2000
CUP 36-99

8. Acceptance of Conditions: Prior to obtaining a building permit and within thirty (30) days of the effective date of this permit, the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

B. PLANNING CONDITIONS:

1. Master Sign Program: The approved Master Sign Program for the site establishes a maximum aggregate total not to exceed 90 square feet. The approved sign program is a mix of projecting signs and surface signs and shall include the following elements:
 - a. Prior to issuance of a building permit, the existing pole sign and all signs not approved in the master sign program shall be removed.
 - b. One additional sign placard shall be added to the replaceable frame located on the proposed handicap lift tower, to accommodate the subtenant within the current Under the Sea Gallery (Psychic Center).
 - c. Pursuant to section 17.68.110 of the zoning ordinance no projecting sign shall encroach more than twelve inches over a public right-of-way.

In the event that the Bed & Breakfast business approved with this conditional use permit, or any other of the current tenants or subtenants, ceases to do business at the subject site, any new tenants or subtenants shall adhere to this Master Sign Program unless an application to amend the sign program is submitted for review and approval by the Planning Commission. It is amended and approved by the Planning Commission.

2. Coastal Development Permit from California Coastal Commission: Prior to issuance of a building permit, the applicant shall submit to the Public Services Department a written confirmation indicating the project has been reviewed and approved by the California Coastal Commission (either a copy of an approved Coastal Development Permit or a permit waiver). Any modifications to the project or conditions of approval shall be reviewed by the Public Services Director to determine whether the change is in substantial conformance with the City's approval. Substantial changes will require review of an amendment by the Planning Commission pursuant to Condition A.4.
3. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 20 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
4. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.

4. Sewer Backwater Valve: Prior to completion, the sewer lateral shall be provided with a backwater valve on private property to prevent a blockage of the municipal sewer main from causing damage to the proposed project.

E. FIRE DEPARTMENT CONDITIONS

1. Fire Safety Plan: Prior to issuance of a building permit, the applicant shall submit a fire safety plan to the Public Services Department for review and approval by the Fire Chief. Said plan shall meet all of the applicable requirements and standards of Chapter 14.60 of the Morro Bay Municipal Code (Uniform Fire Code). In accordance with Section 14.60.200, an automatic fire sprinkler system may be required.

Exhibit D

EXHIBIT E



AGENDA NO: _____

Meeting Date: 9/22/08 Action: _____

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 15, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: CONCEPT PLAN APPROVAL FOR THE EMBARCADERO
CONFERENCE CENTER LOCATED AT 801-833 EMBARCADERO, UPO-
212

RECOMMENDATION: Staff recommends the City Council approve the Mitigated Negative Declaration and conditionally approve the Concept Plan.

FISCAL IMPACT: The applicant has paid the processing fees. The potential fiscal impact associated with this project could be significant by expanding the community's traditional tourist season beyond the peak summer months for meetings and conferences throughout the full year.

SUMMARY: The applicant is proposing to demolish portions of two detached buildings on separate lease sites and remodel the structures while adding new square footage by constructing a 6,257 square foot conference center, 7,770 square foot commercial retail, 2,188 square foot restaurant, add 17 new boat slips, 8-foot lateral access, and view decks, and create two public plaza's (one on the north side of Outrigger and one on south side using dead end street of Morro Bay Blvd.) by requesting expansion of lease space in exchange for the street end to facilitate the project. The project is anticipating only partial removal of the existing buildings. The total building area is approximately 19,311 square feet with a footprint of 11,090 square feet or 65% lot coverage, which includes the street end. The applicant's are requesting the project be considered a remodel in order to retain the historic parking credits. The previous uses required 31 parking spaces for Outrigger building and 79 parking spaces for Embarcadero Grill. The new uses generate a parking demand of 197 parking spaces and various parking management strategies are proposed to offset the projects shortfall.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

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EXHIBIT E

BACKGROUND:

The Planning Commission held a public hearing on September 2, 2008 and voted 5-0 to recommend approval after adding conditions of approval. The Commissioners added the following conditions:

1. The project is required to be (Leadership in Education and Environmental Design) LEED certified.
2. Public restrooms and appropriate signage will be required during business hours.
3. Coordination with the Harbor Department regarding slip design and ease of navigation.
4. The Public Plazas are recommended via new lease area however the Commission also felt enough public benefits warranted exception if needed. The Plazas are required to be open to the public 24 hours 7 days a week. An emergency access path to facilitate Fire Department was also required.
5. Parking – the Commission recommended the applicant secure an additional 87 parking spaces (public or private) in addition to the historical credits of 110 allowed. These additional 87 spaces should be outside of the Embarcadero public lots of Front Street and Tidelands. Better demonstration of their location and effective methods of transportation to and from these locations to the conference center and back during the event hours. The terms for any and all off-site private locations shall enter into an agreement and run with the City lease.
6. Following the implementation of the parking management strategies above a 2-year monitoring program shall be submitted by the applicant to measure the success of the program.
7. A new pick-up and drop-off located across the street within the Front Street parking area near the chessboard should be designed into the project.
8. Finally, better articulation along the South-side of the building should be considered.

The applicant's have submitted the same plans as reviewed by the Planning Commission along with the verbal commitment to revise the plans to reflect the changes requested of the Commission including noting public restrooms, emergency access, drop-off/pick-up, dock configuration (Harbor Department has concurred on the design), and changes to the southern elevation. The applicant's will present the changes in graphic form at the meeting to better illustrate the new elements. The applicants want the Council to review the same plans submitted to the Commission. In addition, the applicant's have provided additional information regarding the locations and better details regarding the parking program including a map of the parking spaces, the number of spaces available, and a commitment to have shuttle service and agreements. The applicant's are not contesting any of the added conditions however are requesting the Council accept the parking program as presented.

DISCUSSION:

The project site is at the edge of the bay, on the west side of the Embarcadero between Harbor, Morro Bay Blvd. and Front Street. The applicant proposes to replace the existing restaurant and adding a floor for a conference center with new commercial lease spaces on the ground floor. The new structure will include a new lateral access way on the bay side of the lease site. In addition, 17 boat slips will be installed on the water. View corridors and photo simulations have been proposed to demonstrate the projects compliance with the Waterfront Master Plan.

EXHIBIT E

Building Components

The existing buildings consist of a 3,667 square foot restaurant space with 280 square feet of outdoor dining, one retail space of 1,510 square feet, and 1,510 square feet of storage/office space above the retail portion within the Outrigger building. The Embarcadero Grill (once the Fish Bowl) consists of 4,282 square foot restaurant within two floors with an additional 1,266 square feet of kitchen area. Retail space is in front of the restaurant with 792 square feet along with 982 square feet of storage/office space and an apartment above of 532 square feet.

The applicant proposes to demolish most of the site, however retaining a large portion of the structure, and replace the site with the same uses on the ground floor while adding a conference center upstairs. The first floor would consist of 1,371 square-feet of restaurant space, which is a large reduction of over 6,500 square feet to create only one restaurant rather than two. The retail space will increase to 7,770 square feet up from 2,300 square feet.

Public Plazas

Two public plazas will be created on either side of the building to create or maintain public view corridors and seating areas or potential outdoor fairs. The second floor will be all new construction consisting of 6,560 square feet of conference and small office space. The conference space will allow for various breakout configurations to maximize it's potential use to accommodate approximately 400 guests. The building will be two-stories with a request to increase the height to 25 feet above average natural grade. The water portion of the site will include a public lateral accessway and new gangways and ADA lift for 17 new finger tie docks while replacing the free public dock for recreational vessels.

Parking

Since the project proposes to replace many of the existing uses (i.e. restaurant, commercial retail spaces and office space), there is no additional impact to parking than what exists now in the replacement of these uses. However, the added conference space and new boat slips generate more parking demand (87 spaces) and should be evaluated and measures put in place to ensure no significant impact occurs. The Planning Commission added a condition that requires the applicant to secure these 87 parking spaces during the times of any events conducted in the facility (i.e. weekdays and weekends during peak and non-peak season times including occasions when another event is held within the City).

Building Height and Views

The Waterfront Master Plan (WMP) requires that public views be protected and enhanced by new development. The applicant is proposing a 25-foot high structure that will not significantly decrease views of the Bay. The WMP requires a 30% view corridor for lots greater than 50 feet in width. The project complies with view corridor requirements. The proposed project will incorporate amenities such as a public restrooms, plazas with benches, architecturally interesting building the will meet LEED certification, widening of the sidewalk and public

EXHIBIT E

pedestrian access through the site and along the water.

The applicant is requesting permission to extend the maximum building height to allow 25-foot maximum height that is permitted by the guidelines provided there is a public benefit provided by the project and that the overall viewshed characteristics will be improved or at a minimum not diminished from the public viewing locations.

CONCLUSION: This project can be found consistent with the waterfront design guidelines with offsetting public benefits and the project's potential impacts can be reduced to less than significant levels through incorporation of a mitigation-monitoring plan. The applicant has agreed to incorporate the mitigation-monitoring plan into the project and fully comply with its mandates. The proposed project is consistent with the development standards of the Zoning Ordinance and all applicable provisions of the General Plan, and Local Coastal Plan with incorporation of recommended conditions.

EXHIBIT E

EXHIBIT A: FINDINGS

UP0-212, A request to demolish the existing Outrigger & Embarcadero Grill Restaurants and construct a mixed-use project with the first floor as restaurant, retail commercial and the second floor consisting of conference center.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-212 is subject to a Mitigated Negative Declaration based on Aesthetics, Hazards/Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Noise, and Transportation/Circulation issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the mixed use commercial retail and conference building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the mixed use commercial retail and conference building will provide additional public benefit and mitigations to limit noise or parking disturbances.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the mixed use commercial retail and conference building is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual accessibility to the bay and rock while increasing retail and tourist activity during non-peak seasons by offering conference facilities:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project does not exceed the maximum height allowed and interesting articulation breaks up the bulk and scale.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public courtyard, providing architectural interest that fits with the Embarcadero area, incorporating a (35) foot wide view corridor adjacent to the building, and including public restrooms.

EXHIBIT E

- c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.
- d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the recreational fishing/boating operations.
- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the new building will open up to the passing pedestrian via large entry doors and public plazas.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of vertical and horizontal siding, vertical windows with wood sills and shutters, and metal seam roof with planter boxes and decorative paving to enhance the plazas.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via new public courtyards.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

Planned Development Overlay

- F. With approval of the project, the City finds that with the heightened level of review the proposed project is acceptable and consistent with Morro Bay standards and the project includes public benefits to deviate from the height, and lot coverage standards.

Architectural Consideration

- G. As required by Ordinance Section 17.48.200 the City find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development ;of the city or to the desirability of investment of occupation in the area.

EXHIBIT E

EXHIBIT B: CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated September 22, 2008 for the projects depicted on the attached plans labeled "Exhibit C" dated September 15, 2008 and on file with the Public Services Department, as modified by these conditions of approval.
2. Changes: Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
3. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
4. Compliance with Conditions: By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
5. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the Zoning Ordinance, Beach Street Specific Plan, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
6. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

EXHIBIT E

7. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
8. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
9. Screening of Equipment/Utility Meters/Fencing: No roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be located on the rooftop. Prior to building permit issuance, the approved location shall be shown on the project plans to illustrate no equipment can be seen.
10. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
11. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Planning & Building. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
12. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
13. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Planning & Building.
14. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.

EXHIBIT E

PLANNING CONDITIONS

15. Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
16. Signage: Prior to installation of any sign on-site, a sign program shall be approved by the Director in conformance with MBMC Chapter 17.68.
17. Soils Report: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

PUBLIC WORKS CONDITIONS

18. A portion of the project site is located within FEMA designated 100-year flood zone and is subject to the requirements of MBMC 14.72 – Flood Damage Prevention, and it appears that the structure and the attendant utilities meet the requirements for protection from flooding. The following Items shall be provided:
 - a. Indicate the finished floor elevation on the construction plans.
 - b. Pre Construction and Final Elevation Certificate prepared by a registered civil engineer or licensed land surveyor shall be provided prior to final occupancy (Note this requirement on the construction Plans).
 - c. Pay the Floodplain Development Fee of \$171 prior to building permit issuance.
19. Frontage Improvements: An encroachment permit is required for the installation of the driveway approach and curb, gutter and sidewalk replacement. Encroachment permits can be obtained from the City of Morro Bay Public Services at 955 Shasta.
 - a. The Embarcadero's frontage shall have a minimum clear 8 feet wide smooth concrete sidewalk per City standards (B-5) as modified by Planning commission to allow 8' wide. Exposed aggregate shall not be used, as it doesn't meet City standards.
 - b. The existing Driveway approaches shall be removed and repaved per item a. above
20. Provide water quality treatment for the runoff resulting from a **two year storm event** either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.

EXHIBIT E

- a. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be preformed by a Registered Civil Engineer and submitted with the building permit application.
21. Show the location of the Fire Department connection and the back flow prevention device.
22. Indicate on the construction plan the location of all the proposed utility connections; sewer, gas, water, phone, power, etc.
23. Conduct a video inspection of the conditions of existing sewer lateral from point of connection to main connection, for City approval, prior to connection. Submit DVD to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.
24. A sewer backwater valve shall be installed on site to prevent backflow of sewage due to a blockage or maintenance of the municipal sewer main. Indicate on the plans.
25. Prepare a Sediment and Erosion control plan.

FIRE DEPARTMENT CONDITIONS

26. Building and Address Identification: Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a ½ " stroke.
27. Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and site plan for updating Fire Departments response books
28. Fire Extinguishers: The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum floor travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a maximum of 3,000 square feet of floor area surveyed. Fire extinguishers listed above, will be required on site during construction.
29. Automatic Fire-Alarm Systems: Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.60.200, in all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.
30. Refuse Containers: Trash enclosures must comply with the 1994 Uniform Fire Code Article 1103.2.2. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall

EXHIBIT E

not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.

31. Fire Alarms: For fire alarm systems employing automatic Fire detectors or waterflow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
32. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UBC Standard N0. 9-1.

ENVIRONMENTAL CONDITIONS

33. BIOLOGICAL RESOURCES

- a. Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and "otter watcher" shall specifically encourage and empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit.
- b. To avoid impacts, all work that disturbs the ocean floor (i.e., installation of pilings) shall be overseen and monitored by the project biologist.
- c. All docks shall be lowered in placed (following assembly) from the existing building site or by water, as stated in the Section 10 authorization from the Army Corp of Engineering.

34. HAZARDS/HAZARDOUS MATERIALS:

- a. Treated wood waste that is a) hazardous waste under California law, b) is not a RCRA-TWW, and c) not from electric, gas, or telephone service (not utility exempt) is eligible for the provisions of HSC sections 25150.7 & 25150.8. TWW may be disposed only in hazardous waste landfills or qualified solid waste landfills.
- b. Treated wood waste that is not hazardous under California law may be disposed at a non-hazardous landfill according to the authorization and provisions of the landfill.

35. HYDROLOGY/WATER QUALITY:

- a. Pilings shall be constructed of steel or pre-poured concrete and shall be implanted into the ocean floor with a pile driver, as opposed to jetting. In the past, Coastal Development Permit

EXHIBIT E

applications issued by the California Coastal Commission have required the following additional mitigation measures. The applicant shall also comply with these conditions, as required or modified by the Coastal Commission. With this mitigation, the project would not have the potential to have significant water quality impacts.

- 1 Material Containment. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering the harbor or any other state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into the harbor or other state waters. A designated staging area shall be used for refueling equipment and vehicles, mixing and storing materials, debris collection and disposal, and containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. For any work on or beneath fixed wharf decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris.

Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills.

Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.

- 2 Piling Installation Procedures. Piling installation will be performed in accordance with Department of Fish and Game recommendations. Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. All piles will be driven into place with a pile driver. Disturbed sediments shall be contained with a flexible skirt surrounding the driven pile.
- 3 Procedures for Concrete Work. If pile installation, or any other portion of the operations and maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the harbor or other state waters:
 - a. Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increases in the pH of adjacent waters; or,
 - b. The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California

EXHIBIT E

Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment.

- c. In each case involving such concrete pours in or near the harbor or other state waters, a separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the harbor or other state waters, nor into storm drains or gutters which empty into such bodies of water.

36. LAND USE AND PLANNING

- a. If the City does not wish to re-allocate the Morro Bay Blvd. street end to merge with lease site 86 and 86W to facilitate this project, then a list of public benefits must be listed to offset the lot coverage requirement. This measure does not include the use of the street end as a public plaza. The City may use the tidelands property as deemed fit however, in order for the conference center project to meet all standards (particular lot coverage) then the area must become part of the lease site boundary.
- b. The finger slip number 18 shall be removed or modified to allow the neighboring lease to continue to gain access to the existing dock.

37. NOISE

- a. No amplified outdoor noise shall be allowed.
- b. Noise decibels greater than 65db at the property line shall be reduced based on an acoustical engineers evaluation but should include measures such as triple pane windows, added insulation, or chalking, the use of acoustical tiles, wall boards or sound attenuating materials.
- c. An acoustical sound engineer shall confirm the best measures to achieve the 65db level intended.

38. TRANSPORTATION/CIRCULATION

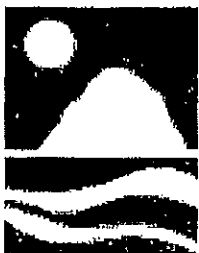
- a. The applicant's shall secure the agreements with Bank of America and Rabobank or other private lots to maintain an additional 73 parking spaces.
- b. The applicant's shall work with nearby hotel owners to make arrangements for accommodations during events. This shall include documenting and requesting at least one month in advance to any event which hotels/motels were contacted and the number of rooms available.
- c. For events that generate more than 100 guests the applicant shall utilize valet parking or equivalent, at the Convention Center's expense.
- d. For events greater than 175 guests the applicant shall contribute to ensure the City Trolley service or other available transportation means is running including during non-seasonal times.
- e. If the applicant fail to follow the mitigation measures than the administrative citation process shall be followed to enforce the permit, which includes written notice, escalating fines, and permit modification or revoking the permit.
- f. If the City decides the strategies outlined in the report, measures listed herein, or PMP do not provide enough assurances to off set the parking demand than the City shall decide on the

EXHIBIT E

number of parking spaces the applicant shall pay into the In-Lieu-Fund.

PLANNING COMMISSION CONDITIONS

39. The project is required to be LEED certified.
40. Public restrooms and appropriate signage will be required during business hours.
41. Coordination with the Harbor Department regarding slip design and ease of navigation.
42. The Public Plazas are recommended via new lease area however the Commission also felt enough public benefits warranted exception if needed. The Plazas are required to be open to the public 24 hours 7 days a week. An emergency access path to facilitate Fire Department was also required.
43. Parking – the Commission recommended the applicant secure an additional 87 parking spaces (public or private) in addition to the historical credits of 110 allowed. These additional 87 spaces should be outside of the Embarcadero public lots of Front Street and Tidelands. Better demonstration of their location and effective methods of transportation to and from these locations to the conference center and back during the event hours. The term for any and all off-site private locations shall enter into an agreement and run with the lease.
44. Following the implementation of the parking management strategies above a 2-year monitoring program shall be submitted to measure the success of the program.
45. A new pick-up and drop-off located across the street within the Front Street parking area near the chessboard should be designed into the project.
46. Finally, better articulation along the South-side of the building should be considered.



CITY OF MORRO BAY PLANNING COMMISSION

February 21, 2006

AGENDA ITEM:
ACTION: _____

SUMMARY:

Mixed-Use Retail and Lodging

CASE NUMBER:

UP0-020

ADDRESS:

501 Embarcadero

LEGAL DESCRIPTION

Lot 4 PM 3-10 Block 137, Tract Lands of
March and McAllister, Town of Morro
Lease Site 53-53W/56-56W
Estero Landing

APN

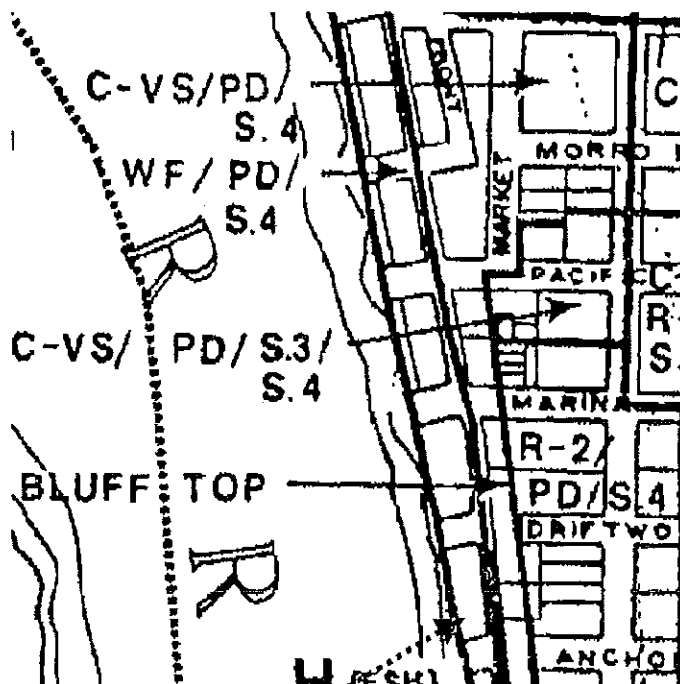
066-137-001

APPLICANT:

Ken Scott
515 Morro Avenue
Morro Bay, CA 93442

ATTACHMENTS:

1. Findings, Exhibit A
2. Conditions, Exhibit B
3. Graphics/Plan Reductions, Exhibit C
4. Mitigated Negative Declaration,
Exhibit D



PROJECT SITE

PROJECT SUMMARY

The proposed project would demolish the existing Estero Landing office and construct a mixed-use project with the first floor as retail commercial comprising of five lease spaces ranging from 360 to 720 square feet, with the ability to combine two or more lease spaces to create a large area if needed. The second floor would consist of six lodging units approx. 2,000 square feet. The applicant is requesting flexibility in height because significant public benefit would be provided. The project would provide four parking spaces for the lodging units on-site and three offsite across the street. The applicant is granted four in-lieu spaces from previous payments for the retail spaces.

STAFF RECOMMENDATION

CONDITIONALLY APPROVE THE PROJECT by adopting a motion including the following action(s):

- A. Approve the Mitigated Negative Declaration (Exhibit D) in accordance with the applicable provisions of the California Environmental Quality Act (Public Resources Code 21000 et. Seq.), and adopt the Findings included as Exhibit "A", including findings required by the California Environmental Quality Act (CEQA).
- B. Approve Conditional Use Permit subject to the Findings and Conditions included as Exhibits A & B and the site development plans dated February 3, 2006.

ENVIRONMENTAL DETERMINATION

A Mitigated Negative Declaration was posted on December 21, 2005 and ended January 19, 2006 with no comments submitted. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Staff recommends approving the Mitigated Negative Declaration (Exhibit D) in accordance with the applicable provisions of the California Environmental Quality Act (Public Resources Code 21000 et. Seq.), approve the development plans based on the findings in Exhibit A and Conditions in Exhibit B.

BACKGROUND

The site is leased by the City of Morro Bay for marine-related uses that currently include a floating dock, office building, and dockage of diesel powered tugboats. The project site is currently occupied by a parking lot, an office building, two cargo storage containers, a platform, and a floating dock. The current uses are primarily office related associated with a commercial fishing business that unloads on-site but sells off-site. Commercial fishing boats dock at a morning and unload commercial fish to a large transport truck.

In 1993, CUP 40-91 was issued for Central Coast Cruises, Inc., (CCC) to operate two approximately 100-foot long excursions boats with capacity for about 140 passengers each. The project required twenty-three (23) parking spacing spaces, which were met through an agreement for payments to the in-lieu fee program for twenty (20) spaces and an offsite parking agreement for three (3) parking spaces. The parking agreements are transferable with respect to operator, site location, and paid in-lieu parking fees subject to location on a city lease and city approval. Central Coast Cruises, Inc., dissolved prior to full payment of the required in-lieu fees; however, the \$14,552.00 paid to the fund will be credited to Estero Landing, Inc., for the proposed project.

On November 7, 2005 the Planning Commission heard a presentation by the applicant to receive feedback on the design and the project's ability to comply with the waterfront design guidelines. At that meeting the applicant was given clear direction from each commissioner on areas of improvement that ranged from better orientation and articulation of the structure, additional landscape and pedestrian areas, providing the biggest view corridor possible, to providing parking that meets the standards.

Waterfront Design Guidelines

The Waterfront area of Morro Bay has been divided into five sub-areas that due to their own unique characteristics require different types of planning and design responses. The proposed project site is in Area 3: Embarcadero Visitor Area (from Beach St. to South St. between the bluff and waterfront). The City has adopted a Waterfront Master Plan, which contains Design Guidelines to assist in evaluating the quality of a design submittal. The overall objective and design intent is to enhance the positive characteristics while improving the access and parking situation. As new buildings are built and old ones rehabilitated, they should be developed to offer physical access and visual accesses to identified public viewsheds and provide pedestrian amenities. In addition, new development should not significantly change the scale of the area. Criteria has been developed for all projects that fall within this architectural overlay for view corridors, building heights, site design and parking, architectural design character and compatibility as well as public access to the water.

EXHIBIT F

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Planning Commission
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Background Issues Specific to Area 3: Embarcadero Visitor Area

The public viewshed is defined as all areas of the bay, harbor, sandspit, and Morro Rock visible from the Embarcadero, the street-ends, public observation points, and the public right-of-way at the bluff top; but not including views from private property, businesses, or residences. The following are a list of concerns:

- Traffic congestion and inadequate parking for visitors and pedestrians, this inhibits exploration of the waterfront experience.
- A greater need for pedestrian access, space and amenities, including wider sidewalks, bicycle paths and increased opportunities for lateral access along the Bayfront.
- View protection at the street level by providing glimpses of the bay through buildings and along the bluff top to allow for visual access of the bay and rock.

Planned Development Process

In essence, when a project lies within the Planned Development Overlay (PD) zone, the PD Overlay elevates the level of review for all development to the Planning Commission via a conditional use permit process. For projects located on public property (i.e., the waterfront or State Park), or on private property exceeding one (1) acre, the PD Overlay requires a heightened review process involving concept plans and precise plans and action by both the Planning Commission and City Council. The proposed project is subject to this procedural requirement because it is located on public lease site property.

The PD Overlay also allows flexibility from strict application of zoning standards, such as density and setbacks, where a better design or public benefit would result. As stated in Section 17.40.030(A) of the Zoning Ordinance, the purpose of the PD Overlay designation is:

"to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This Overlay Zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit."

The applicant is seeking the flexibility to increase the height from 17-feet to 22-feet.

Surroundings & Characteristics

<u>Site Characteristics</u>	
Site Area	~11,000 square feet
Existing Use	Marine Support
Terrain	Paved surface, gentle slope to bay
Vegetation/Wildlife	None
Archaeological Resources	No known resources

<u>Adjacent Zoning/Land Use</u>			
North:	Morro Bay Yacht Club	South	Public Park/Coastal Access
East:	Commercial (Restaurant)	West:	Harbor (Morro Bay)

EXHIBIT F

Ken Scott
UP0-020

Planning Commission
February 21, 2006

General Plan, Zoning Ordinance & Local Coastal Plan Designations	
General Plan/Coastal Plan Land Use Designation	Mixed Use/ Harbor
Base Zone District	Waterfront (WF)
Zoning Overlay District	Planned Development (PD)
Special Treatment Area	S-4
Combining District	N/a
Specific Plan Area	No
Coastal Zone	Yes – Original Jurisdiction

ANALYSIS

Development Standards

The WF/PD/S.4 zoning standards and Waterfront Design Criteria are as follows:

Development Standard	Proposed Plan	Ordinance Requirement
Setbacks: Rear: Side: Interior Side: Exterior Side: Front:	35' 0' 0' 5' average 10' second story	10' 0' 6' 5' average first floor 10' second
Lot Coverage/Bulk & Scale	21% first floor 84% second	70% first floor with 70% of the first floor available to the Second
Building Height	22' with roof pitch of 4/12	25' maximum with 80% of all roofs having a minimum 4/12 pitch under PD Overlay so long as the viewshed is improved, or not diminished.
View Corridors	Volume offsets required area	50' or more 30% min. view corridor
Frontage Improvements	10' sidewalk	8' or more sidewalks; street amenities
Landscaping	Street Trees Only	Section 17.48.290
Parking/Driveways	Plan includes 4 spaces on-site, parking agreement for 3 spaces off-site, and previous parking in-lieu payment for 4 spaces Parking Requirement Met	1/300 retail = 4 spaces 1/ each lodging room = 6 spaces + 1/ each 10 rooms = 1 Total of 7 spaces No parking allowed in front setbacks, which interrupt street continuity and pedestrian passage.

Site Plan & Design**Uses and parking**

The existing 750 square-foot building currently houses the office functions for the commercial fishing operations. The building is at least 46 years old and sustained damage during the earthquake in 2004. The applicant proposes to demolish the structure and replace it with a mixed-use building with retail downstairs and lodging upstairs. The first floor consists of 2,304 square-feet of retail space in 5 different lease areas. The second floor consist of 6 B&B units each approx. 326 square feet. The buildings will be two-stories and connected by a pedestrian walk.

The parking configuration complies with MBMC Chapter 17.44. The applicant proposes four standard parking spaces on-site. The applicant will stripe the spaces and install wheel stops. Five percent of the parking area will be landscaped with low scrubs, perennial flowers, and trees. By far, the issue of parking is the greatest area-wide concern and the issue that draws the most complaints from residents and visitors. Seven (7) parking spaces are provided on-site or near by across the street that would allow patrons of the B&B to reasonably park near their lodging unit.

Architecture

In staff's opinion the architectural design and character of the proposed mixed-use building is in keeping with the fishing village community and will add to the ambiance of the waterfront area. At the ground floor level, the facade is set back from the sidewalk to give a pedestrian feel with the second floor setback an additional 10 feet. Courtyards and balconies help define the shape and the uses of materials are those seen in the area. The second floor windows are oriented to capture view of the Bay; entries into the retail spaces are from the central courtyard. The wall surfaces are horizontal shiplap siding, with multilevel trim and built-up fascias.

Public Views, Access, and Significant Benefit

The WF plan requires that public views be protected and enhanced by new development. The applicant is proposing a 22-foot high structure that will continue to allow views of the Bay. The WF plan requires a 30% view corridor for lots greater than 50 feet in width. The proposed project will incorporate amenities such as a public courtyard with benches, architecturally interesting building, widening of the sidewalk, etc.

Although the view corridor requirement specifies a linear dimension the guidelines allow the ability to offset this requirement provided the volume of space is increased. The examples given in the WF plan have been simplified for ease of illustration that represent a boxy structure in exchange for unobstructed views which does not allow for architectural relief such as balconies, pedestrian bridges, etc. However, in the real world these interesting elements are encouraged and therefore the volume of space identified in the WF plan graphics is what is being measured. Under this requirement the proposed project meets the required view corridor.

Height

The Waterfront Master Plan allows for an increase in height above the 17-foot limit via a Conditional Use Permit in the Planned Development Overlay zone. The PD zone allows the Planning Commission to approve a 25-foot maximum height is significant public benefit can be achieved. The Commission must make the finding that the overall viewshed characteristics will be improved or, at a minimum, not diminished from the public viewing locations established within the WF plan. Additional requirements put on the project are as follows:

EXHIBIT F

Ken Scott
UP0-020

Planning Commission
February 21, 2006

1. 80% of the roofs for both one and two stories portions shall be sloping with a minimum 4 in 12 pitch;
2. Incorporate view corridors between the buildings;
3. Encourage provision of public (non-customer) viewing areas of the bay and waterfront;
4. Regardless of any findings for significant public benefit, the maximum height cannot exceed 25 feet.

This particular proposal offers all three public benefits identified in the Waterfront Master Plan including: providing 4:12 pitch roofs, approaching but not maxing out under the height limit (at 22-feet), incorporating a seven (7) foot wide view corridor between the buildings, proposing a much smaller lot coverage of (21%) when 70% could be allowed, providing a non-customer or public member viewing opportunity from a large 30' by 32' platform. Based on these identified public benefits staff believes the project meets the intent to increase the height limit over 17-feet.

Additional benefits include creating wider sidewalks to increase pedestrian circulation, which is a much-needed public benefit. Creating a courtyard within the project, adding street trees, and creating architectural interest to a structure enhances the physical and visual experience of the Embarcadero is a definite positive benefit along the Embarcadero. Additional retail and lodging opportunities at the southern end of Embarcadero allows people to see more of what Morro Bay has to offer and can add to the experience of visitors.

Waterfront Design Guidelines Consistency

This project is consistent with the waterfront design guidelines. The applicant has not prepared photographs indicating how the new project will relate to its surroundings, but feels the changes made based on the presentation discussion provides better articulation and bulk and scale relationship by opening up views through the building and meeting the area calculation for view corridor. Lateral access has been providing to connect to Mariner Park and the Yacht Club.

The applicant is requesting permission to extend the maximum building height to allow 25-foot maximum height that is permitted by the guidelines provided there is a public benefit provided by the project and that the overall viewshed characteristics will be improved or at a minimum not diminished from the public viewing locations.

POLICY AND CONSISTENCY ANALYSIS

General Plan and Coastal Land Use Plan:

Applicable Planning Policies	Consistency Analysis
<u>Safety Element:</u> <u>Program S-1.5 & 8.2:</u> structural stability and erosion control. <u>Program S-6.1:</u> soils report required. <u>Program S-3.3:</u> smoke detectors required. <u>Programs S-7.1-S-7.4:</u> Rainy Season Grading Restrictions, Sediment Basins, Erosion/Drainage Control	 A standard condition of approval has been incorporated into the project pertaining to soils report, grading, drainage and erosion control. Smoke detectors will be required of the project. A standard condition of approval has been incorporated into the project pertaining to grading, drainage and erosion control.
<u>Noise Element:</u>	

EXHIBIT F

Ken Scott
UP0-020

Planning Commission
February 21, 2006

<p>Program N-1.3: "New development of noise sensitive land uses shall not be permitted in areas exposed to existing or projected future levels of noise from transportation noise sources which exceed 0 dB, Ldn, CNEL unless the project design includes effective mitigation measures to reduce noise in outdoor activity areas and interior spaces to or below the levels specified in Table N-4."</p> <p>Program N-1.4 Stationary noise sources.</p> <p>Program N-4.2-4.3 New development shall not create a new transportation or stationary noise source.</p>	<p>The project site is not exposed to significant transportation or stationary related noise sources. Standard ordinance provisions governing construction hours ensure that impacts on surrounding properties from construction noise will be minimized.</p> <p>The proposed use will not create a new transportation or stationary noise source.</p>
<p>Housing Element:</p> <p>Policy H-7: Inclusionary requirement</p> <p>Policy H-19: Energy Efficiency requirement</p>	<p>The project does not meet the threshold of 8-unit development. However, an impact fee of 30 cents a sqft. is collected for all new development.</p> <p>The project will be required to meet State energy requirements.</p>
<p>Circulation Element:</p> <p>Sidewalks: Policies C-1-C-8 Bikeways: Policies C-9-C-12 Streets: Policies C-13-C-20 Parking: Policies C-21-C-26 Transit: Policies C-27-32 Harbor: Policy C-33 Utilities: Policies C-34-C-38</p>	<p>Circulation element policies require standard curb, gutter and sidewalk improvements to adjoining public right-of-way as well as in-lieu payment for the project's pro-rata impact on area roads and intersections.</p>
<p>Program LU-15.1: The Zoning Ordinance should encourage flexibility in the application of its development standards related to height, setbacks, and building coverage. In order that all of these development characteristics work together, rigid enforcement of any one or all of them can result in unimaginative development.</p> <p>Program LU-37.8: Public rest areas should be incorporated into the street rights-of-way in Downtown and the Embarcadero. These areas should consist of benches, trash receptacles, drinking fountains, landscaping, information signing or kiosks and decorative paving and planters.</p>	<p>The applicant is seeking a height extension.</p> <p>The proposed project is providing wider sidewalks and benches and public courtyard.</p>
<p>Land Use Policies (LUP Chapter II)</p>	

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Visitor-Serving:

"The visitor-serving land use category is especially important to the City since tourism is a significant contributor to the local economy. This category encourages concentration of tourist-intensive uses at major destination points in the City or at locations easily accessible to travelers along State Highway One. Visitor-serving uses that should be developed in those areas designated as such are hotels/motels, overnight RV facilities, restaurants, gift shops, goods and supply stores, commercial recreation and other uses typically found to accommodate tourist needs and activities."

The project provides a mixture of retail commercial, visitor serving uses on the ground floor.

The proposed Plan incorporates a 6 lodging units on the second floor.

Access & Recreation Element & Shoreline Access & Recreation /Coastal Access & Recreation Policies (LUP chapter III)

General Policies 1.01-1.07A; Access & Recreation & AR-9

Policy 1.20 & AR-20: Lateral public access to the waterfront required across the bay ward portion of the site unless determined to be infeasible.

The project is on the bay ward side of Embarcadero therefore lateral access is required.

Policy 1.26 & AR-25: "Lateral public access along the waterfront revetment shall be provided in all new developments, rehabilitation or addition projects consistent with Policy 1.20 with public safety needs and the need to protect public rights, rights of private property held by leaseholders, and natural resource areas from overuse."

The project is on the bay ward side of Embarcadero the waterfront revetment has already been repaired.

Coastal Visitor-Serving Facilities Policies (LUP Chapter IV)

General Policies 2.01-2.02

Policy 2.03: "... the Embarcadero between Beach Street on the north, Main Street on the east, Olive Street on the south and the waterfront area on the west, shall be considered a mixed commercial fishing and visitor serving recreation use area. With regard to the siting of new developments, priority shall be given for coastal-dependent uses located on the west side of the Embarcadero."

The project is located on the west side of the Embarcadero and primarily for visitor serving use.

Policy 2.08: provision of off-street parking is sufficient to serve the development's peak demands.

The project previously paid in-lieu-fees for 4 spaces and providing 4 spaces on-site, parking agreement for 3 spaces off-site.

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<p><u>Public Works (LUP Chapter V)</u></p> <p><u>Policy 3.01:</u> The City of Morro Bay shall approve future growth in conjunction with water and sewage treatment availability.</p> <p><u>Policies 3.02-3.06:</u> In the City of Morro Bay water allocation, the City shall insure the following uses receive priority for available water and wastewater treatment facilities:</p> <ul style="list-style-type: none"> Commercial Fishing / Agriculture Coastal-Dependent Land Uses Coastal-Related Land Uses Public Services and Basic Industries Public Recreation Commercial Recreation Visitor-Serving Land Uses Residential and other Commercial and Industrial Land Uses <p><u>Policy 3.07:</u> Water-saving devices shall be required in new developments.</p>	<p>The project is consistent with the City's growth projections and adequate water and sewer is available.</p> <p>The project is a visitor serving retail use and will receive priority.</p> <p>The project as conditioned will be required to provide water saving devices.</p>
<p><u>Archaeology (LUP Chapter VI)</u></p> <p><u>Policy 4.01- 4.08 & LU-82:</u> reconnaissance, discovered, and protection of significant archaeological and historic resources to the greatest extent possible.</p>	<p>The entire project is located on fill placed in connection with creation of the Embarcadero therefore archaeological resources are not anticipated. However. A standard condition of approval has been incorporated into the project, which specifies procedures in the event archaeological resources are uncovered.</p>
<p><u>Energy/Industrial Development (LUP Chapter VII)</u></p> <p><u>General Policies 5.01-5.22:</u> more specifically related to the PG&E property.</p>	<p>Not applicable</p>
<p><u>Coastal Agriculture (LUP Chapter VIII)</u></p> <p><u>General Policies 6.01-6.09:</u> prime and non-prime soils.</p>	<p>Not applicable</p>
<p><u>Commercial Fishing/Recreational Boating Policies (LUP Chapter IX)</u></p> <p><u>General Policies 7.01-7.08</u></p> <p><u>Policy 7.06A:</u> "The Embarcadero...shall be considered a mixed commercial fishing and visitor-serving area. Public access and recreational opportunities shall be maximized</p>	<p>See above discussion.</p>

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Ken Scott
UP0-020

Planning Commission
February 21, 2006

<p>along the waterfront consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse. Public access from the nearest public roadway to the shoreline and along the bay front shall be provided..."</p>	
<p><u>Diking, Dredging, Filling and Shoreline Protection Policies (LUP Chapter XI):</u></p> <p><u>General Policies 10.01-10.11</u></p>	<p>Not Applicable. Work associated with the floating dock and revetment has been completed or is not a part of the project.</p>
<p><u>Environmentally Sensitive Habitat Policies (LUP Chapter XII)</u></p> <p><u>Policy 11.08:</u> "Pollutants such as chemicals, fuels, lubricants, raw sewage and other harmful wastes generated during commercial or recreational boating activities shall be prohibited from being discharged into the bay."</p>	<p>The project site is not within a designated ESH area; however, it is adjacent to the bay. Conditions of approval have been added that address polluting the bay.</p>
<p><u>Visual Resource & Scenic Highway Elements & Coastal Land use Plan Visual Resource Policies (LUP Chapter XIII)</u></p> <p><u>Policy 12.01 & VR-2:</u> "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas..."</p> <p><u>Policy 12.02 & VR-2.2:</u> "...Specific design criteria shall be established... (a) building height/bulk relationship compatible with existing surround uses; (b) landscaping to restore and enhance visually degraded areas... (c) preservation and enhancement of views of the ocean, bay, sand spit and Morro Rock..."</p> <p><u>Policy 12.07 & VR-6:</u> The City shall establish a policy for undergrounding of utilities in connection with new development or major redevelopments.</p> <p><u>Program VR-4.3-4.4:</u> provision for street trees that are adequately placed, species and height</p>	<p>The attached Exhibits provide evidence that the project will be consistent with Policies 12.01 & 12.02. Additionally, standard Planning Division conditions of approval and mitigation measures have been incorporated into the project ensuring compliance with design guidelines included in the Waterfront Master Plan.</p> <p>The project as conditioned will be required to underground its utilities.</p> <p>The project proposes 2 street trees to be identified by Public Works that does not exceed 20 feet in height.</p>

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UP0-020

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February 21, 2006

Existing Land Uses surrounding the project site are a public park that provides coastal access, a private boatyard, the harbor, and commercial uses. The commercial uses are other marine-related services and restaurants. The proposed uses will not conflict with existing uses and are consistent with the General Plan and Local Coastal Program. The project is not expected to conflict with any policies in the applicable elements of the General and Coastal Land Use plans. Engineering Conditions are included to insure that the project does not conflict with General Plan Program LU-58.1/LUP Policy 11.08 which states "Pollutants such as chemicals, fuels, lubricants, raw sewage and other harmful wastes generated during commercial or recreational boating activities shall be prohibited from being discharged into the bay." Conditions 21-23 require the applicant to install oil-water separator and/or drainage inlets to prevent petroleum hydrocarbons and sediment from draining to the bay.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on February 10, 2006 and all property owners of record within 300 feet and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

The proposed project would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan, Local Coastal Plan, and Waterfront Master Plan in that the public benefit provided to offset the height requested were warranted and created a better project. A Mitigated Negative declaration has been prepared for this project.

Report prepared by: Mike Prater, Senior Planner

EXHIBIT F

CALIFORNIA COASTAL COMMISSION
Central Coast Area
640 Capitola Road
Santa Cruz, CA 95062-2799
(408) 479-3511

TU-196

Filed: 12/18/92
49th Day: 02/05/93
180th Day: 06/16/93
Staff: SG/cm
Staff Report: 12/22/92 1435P
Hearing Date: 01/12/93

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 3-92-86

APPLICANT: ROBERT GRAY AGENT: Gene Doughty

PROJECT LOCATION: 561 Embarcadero; City of Morro Bay

PROJECT DESCRIPTION: Proposal to construct a 1,290 square foot addition to an existing two unit motel and art gallery to include a 420 square foot motel unit, 570 square foot framing workshop, and a 300 square foot office to result in a three unit motel and art gallery with framing workshop and office.

Lot area:	4,663 square feet
Building coverage:	1,750 square feet
Pavement/Decking coverage:	2,615 square feet
Unimproved Area:	218 square feet
Landscape coverage:	80 square feet
Parking spaces:	Required: 6
	On-Site: 3
Zoning:	WF/PD/H/S.4
Plan designation:	Waterfront/Mixed Uses/Harbor/Planned Development
Ht abv fin grade:	21 feet, 9 inches

LOCAL APPROVALS RECEIVED: CUP 07-92, Concept Plan, 10/12/92

SUBSTANTIVE FILE DOCUMENTS: Morro Bay Certified LCP

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

EXHIBITS:

- A. Standard Conditions
- B. Area Map
- C. Vicinity Map
- D. Floor Plan and Elevations
- E. Driftwood Streetend View
- F. Marina Street View

II. Standard Conditions. See attached Exhibit A.

III. Special Conditions.

A. Access

PRIOR TO THE TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, a copy of the public access program including signage shall be submitted to the Executive Director for review and approval. Applicant shall provide full public access to the deck leading to the existing gangway. No public access is required on the gangway, the existing four-slip marina, or the motel deck.

B. Parking

Prior to the issuance of a building permit, the applicant shall provide the Executive Director with a copy of the City-approved off-site parking agreement for three automobile parking spaces, or proof of payment of in-lieu parking fees for three vehicle parking spaces or proof of City approval for incorporation of the required in-lieu parking fees into the lease site payment schedule.

C. Other

All requirements of the City's CUP 07-92 are hereby incorporated into this coastal development permit. Any amendment of the City permit shall require an amendment to this permit.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Location and Description

The project site is on the west side of the Embarcadero between the Embarcadero and the estuary of Morro Bay one block south of Marina Street. The site is City Lease Site 63-4 and 63-4W.

The proposal is to construct a second story addition to an existing two-unit motel and art gallery. The proposal would result in a third motel unit above the existing two and an office and framing workshop above the art gallery. The addition would be within the footprint of the existing structure; no additional area of the site would be covered by the structure. All of the work would be on the land area of the lease site; no work is proposed over the water.

B. Public Access, Parking and Circulation

Coastal Act Section 30212 provides for public access in new development from the nearest public road to and along the coast:

Section 30212 (part).

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Public access to the gangway deck is currently provided. Since this site is a City lease of State tidelands granted first to the County and passed to the City upon incorporation, provision of access is protected through the lease agreement. This proposal will continue to provide public access from the Embarcadero out to the edge of the water on the gangway deck. It is therefore consistent with Coastal Act Section 30212 (See Exhibit D).

Section 30252 of the Coastal Act provides that:

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high

intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30212.5 provides that:

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

The City's LCP contains the following policies for providing parking on the Embarcadero and environs:

Policy 1.07A. In reviewing all new development requests, provision shall be made for adequate off-street parking in order to serve the needs of the development. Once an approved parking management program for the City providing off-street parking resources has been developed and implemented as a part of the LUP, new development shall be allowed to satisfy parking requirements through participation in such a program. If the program includes an in-lieu fee system, the new development shall provide an in-lieu fee of an amount equal to the purchase of land and construction of the number of spaces needed to serve the development's needs.

Policy 2.08. In reviewing visitor-serving development in the Embarcadero as defined in Policy 2.03, the City shall find that provision of off-street parking is sufficient to serve the development's peak demands as defined in Phase III of the Local Coastal Program. Parking demands shall be satisfied by the provision of off-street facilities on the development site or within 300 feet. Once a parking management program for the Embarcadero has been developed which provides off-street parking resources, and such a program is implemented, applications for development shall be allowed to satisfy their peak parking demands through participation in the program. If the program includes an in-lieu fee system, the applicant shall provide the City an in-lieu fee of an amount equal to the purchase of land and construction of the number of spaces needed to serve the development's peak needs. The City shall use the fees to provide for parking support in the Embarcadero.

The City's implementing ordinances contains the following section:

17.33.090 [Waterfront District] Parking(part). Applications for a conditional use permit for new development shall include a plan for parking and landscaping of parking areas in accordance with Chapter 17.44 and Sections 17.48.310 of this Title, and with the following additional provisions:

- A. In reviewing applications for visitor-serving uses in the West Embarcadero, provision of off-street parking shall be found to be sufficient to serve the needs generated by the development as required by Chapter 17.44 and as follows:
1. Parking demands shall be satisfied by the provision of off-street facilities on the development site or within 300 feet;
 2. When a parking management plan which provides off-street parking resources for the Embarcadero has been developed and implemented, applications for development in this district shall be allowed to satisfy their parking requirements through participation in the program, including any provision for an in-lieu fee system.

Parking along the Embarcadero is extremely limited during peak use periods during the summer and on holidays. According to the City's parking requirements, this proposed addition would require three additional parking spaces; currently three exist: two for the two existing motel units and one for the gallery. There is no room on the site for more spaces. The motel units are the most intensive use on the site and the use which most needs site specific parking spaces since virtually all guests would travel by car to the motel. The art gallery and associated framing workshop cater mostly to walk-in clientele who are visiting the Embarcadero generally and happen to stop to view and purchase art work. The applicant must either pay in-lieu fees to the City or else obtain approval from the City of an off-site parking agreement. In either event, the proposal is consistent with the Coastal Act for access and parking.

C. Visual Resources

Coastal Act Section 30251 provides that:

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Immediately to the north and south of this site are sites with two story structures. Views from the Embarcadero to and along the estuary, the sandspit across the estuary, and Morro Rock, about three-quarters of a mile northwest of the site, will not be blocked or infringed upon to any significant degree by the addition of a second story to the existing structure. Views from the Driftwood Street streetend on the blufftop southeast of the site to the Rock and the sandspit will not change. There will be a loss of a small portion of the view of the estuary from this blufftop streetend; however there will remain a completely unobstructed view of the estuary along the truncated portion of Driftwood Street below the bluff that deadends at the estuary about 30 feet south of the subject site (See Exhibit E). The view from Marina Street, which runs down the bluff to intersect the Embarcadero northeast of the site, currently allows glimpses of the estuary and the sandspit beyond. A small portion of the view toward the estuary and sandspit would be lost by the second story addition. For motorists the view is fleeting at best; pedestrians get more of a view because of their slower pace, but in either case this view is minor because of the angle of the view and the buildings and trees that interrupt it. However, the portion of Driftwood south of the site ending at the estuary would still allow an open area for a view to the estuary and sandspit (See Exhibit F).

The height and finish of the structure will be compatible with the character of the surrounding areas and no significant view will be degraded or lost. The proposal can be considered consistent with the Coastal Act.

D. CEQA

The site lies within the City of Morro Bay, but falls within the Commission's area of original permit jurisdiction because it is located on potential State tide lands which have been filled. The Commission's permit process has been designated the functional equivalent of CEQA. CEQA provides for the exemption of certain types of projects from environmental review, including additions to existing structures if the addition does not result in an increase of more than 10,000 square feet, if all public services are available to allow for maximum development permissible, and if the project area is not environmentally sensitive. This proposed project would result in only a 1,290 square foot addition in an intensively developed area of the City where sewer, water, and all other public services exist and would not involve development in the estuary, an environmentally sensitive area. All work would be on the land. Therefore the proposal is exempt from environmental review and is consistent with CEQA and the Coastal Act.



CITY OF MORRO BAY PLANNING COMMISSION

January 5, 2003

AGENDA ITEM: X/A
ACTION: _____

PROJECT SUMMARY

FILE NUMBERS

CUP 25-03R

LEGAL DESCRIPTION(S)

City of Morro Bay Lease Sites 91-2 & 91-2W

APN(S)

066-352-018 & 041

APPLICANT:

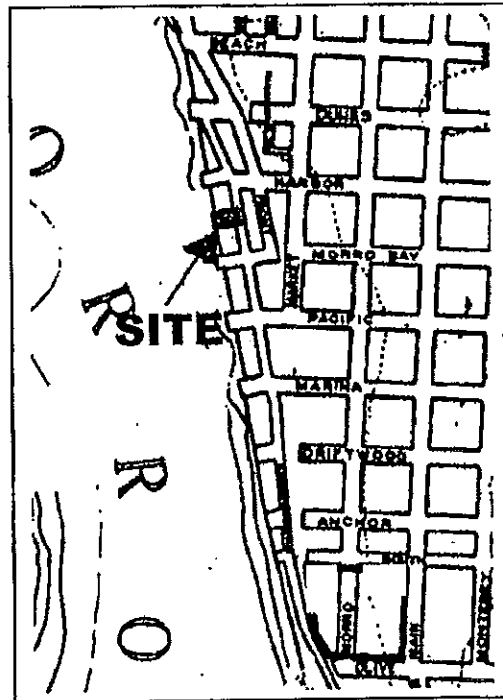
Rodger Anderson

AGENT:

Simon Puglisi

ATTACHMENTS:

1. Findings, Exhibit A
2. Conditions, Exhibit B
3. Graphics/Plan reductions, Exhibit C
4. Plans
5. Photo Simulations
6. Mitigated Negative Declaration



Vicinity Map

ISSUE SUMMARY

The applicant is proposing to replace the existing Galley restaurant with three commercial lease spaces and an eight room inn.

STAFF RECOMMENDATION

CONDITIONALLY APPROVE THE PROJECT by adopting a motion including the following action(s):

- A. Adopt the Findings included as Exhibit "A";
- B. Approve the Concept Plan for CUP 28-02, subject to the Conditions included as Exhibit "B" and the site development plans dated September 17, 2003.

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration was posted on November 21, 2003. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Thus there are no significant impacts with the implementation of those mitigation measures.

EXHIBIT H

Roger Anderson
CUP 25-03
BACKGROUND:

Planning Commission
January 5, 2003

<u>Adjacent Zoning/Land Use</u>			
North:	WF/PD/S.4-Street then Restaurant	South	WF/PD/S.4-Restaurant & Gift Shop
East:	Embarcadero & Vacant lot	West:	H-Harbor

<u>Site Characteristics</u>	
Site Area	Approximately 10,226 square feet (6,696 land area and 3,530 water)
Existing Use	Restaurant and retail shop
Terrain:	Level
Vegetation/Wildlife	None, developed site
Archaeological Resources	None, fill and water
Access	Embarcadero

<u>General Plan, Zoning Ordinance & Local Coastal Plan Designations</u>	
General Plan/Coastal Plan Land Use Designation	Mixed Uses (Harbor)
Base Zone District	WF – Water Front
Zoning Overlay District	PD – Planned Development
Special Treatment Area	S-4 – Design Criteria
Combining District	
Specific Plan Area	No
Coastal Zone	Yes, Coastal Commission original jurisdiction

GENERAL PLAN AND LOCAL COASTAL PLAN CONSISTENCY

Program VR-2.2 in the Visual Resources and Scenic Highway Element, requires view easements or corridors designed to protect views to and along the ocean and scenic and coastal areas for areas identified in the plan. This is one of those identified areas and the proposal implements that requirement because the public is given access to the ocean side of the developments. This project now provides a view corridor that did not previously exist and complies with the policy.

WATERFRONT DESIGN GUIDELINES

This project is consistent with the waterfront design guidelines. The applicant has prepared the required photographs indicating how the new project will relate to its surroundings. The photographs are attached to this report. As can clearly be seen, the project will provide the view corridors required of the guidelines, that do not now exist, and the structure does not substantially impact views of the ocean and Morro Rock. The required lateral and vertical access is proposed consistent with the guidelines.

The applicant is requesting the maximum 25 foot maximum height that is permitted by the guidelines provided there is a public benefit provided by the project and that the overall viewshed characteristics will be improved or at a minimum not diminished from the public viewing locations. For a public benefit the applicant is proposing a public restroom on the site and is proposing architecture of a superior quality. The architecture provides a well articulated building a character in keeping with the neighboring properties and the character along the waterfront.

EXHIBIT H

Roger Anderson
CUP 25-03

Planning Commission
January 5, 2003

ZONING ORDINANCE

Section 17.24.B. 9. for the Waterfront (WF) district required public access subject to Section 17.48.280. That section requires lateral public access of eight feet in width along the bayward side of development. This proposal is in compliance with the coastal access requirements because such an access way is proposed. The uses proposed are permitted in the WF land use category.

The site currently has a portion of the parking partially on the street and partially on the lease site. This arrangement is proposed to be retained. The proposed inn units each have a parking space provided as required by the zoning ordinance. The new project will have less parking demand from the restaurant (a high parking demand use), because the proposed restaurant area is smaller in area than the existing restaurant while the retail area, (a low parking demand use) will be increased in area. Thus, there will be a net benefit to parking from the new project. Parking requirements are clearing indicated on the project plans.

ENVIRONMENTAL ISSUES

Ellgrass:

The 210 square feet of eelgrass (*Zostera marina*) is classified as a Special Aquatic Site under the Clean Water Act. Eelgrass is an important foraging and rearing habitat for several species of importance. Several species of commercial or recreational importance are known to associate with eelgrass. While there are no pilings to be placed directly into the eelgrass bed, the proposed improvements on the site may impact the eelgrass due to shading from the accessway and dock. Some researchers have indicated that eelgrass can adapt to low light while others indicate that there is a decline following shading. For these reasons a mitigation measure is proposed that the eelgrass be monitored by a qualified biologist annually for three years and if any decrease in the area be mitigated on a one to one basis. While the biologist suggested this mitigation, it appears to be consistent with the Southern California Eelgrass Mitigation Policy of The National Marine Fisheries Service. In addition, mitigation measures to avoid hazardous chemicals impacting the eelgrass are proposed.

Mammals and Birds

Otters and pelicans can be impacted by noise or activity associated with the construction of the project. However, this impact is considered negligible since there is other ambient noise in the environment such as boat traffic and tourist. Harassment of the wildlife should be mitigated as well as other hazards to wildlife. Mitigation measures are proposed that reduce impacts associated with the construction that include not permitting dogs on the construction site, and covering trash and garbage receptacles.

For protected species, there are two types of potential harassment of the animals. They are basically intentional harassment and unintentional such as noise that might be caused by construction. Either is a violation of federal law. A mitigation measure is proposed that requires a person on site to watch for the animals.

Air Pollution

While the Air Pollution Control District indicated in their letter of December 22, 2003 that the project does not exceed any of the air quality thresholds they did indicate their requirements for projects under one acre in size. These requirements have been incorporated in the conditions of approval so assure that the applicant is aware of them. The APCD also provided information about building demolition and asbestos. As a requirements of a building or demolition permit the applicant is required to address the issue of asbestos abatement on the site. An asbestos report is required and proper abatement must take place as a part of the building permit.

EXHIBIT H

Roger Anderson
CUP 25-03

Planning Commission
January 5, 2003

PUBLIC NOTICE

Notice of this item was published in the San Luis Obispo Telegram-Tribune newspaper on, and all property owners of record within 300 feet of the subject site and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION

The proposed project is consistent with the applicable development standards of the zoning ordinance and all applicable provisions of the General Plan, Local Coastal Plan and Waterfront Design Guidelines with incorporation of recommended conditions. It has been determined to not have significant impacts on the environment with the implementation of the mitigation measures contained in the Mitigated Negative Declaration to which the applicant has agreed.

Report prepared by: Greig S. Cummings, Planning Manager

S:\Planning\Projects\Embarcadero 899 The Galley\Stf rpt 899 emb.doc

Attachment C
RESOLUTION NO. 37-05

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY
AMENDING THE PARKING IN-LIEU FEE AND DESIGNATING AND
APPROPRIATING MONIES FROM THE PARKING IN-LIEU FUND**

**THE CITY OF MORRO BAY
Morro Bay, California**

WHEREAS, In-Lieu Parking Fees were established, codified as Morro Bay Municipal Code Section 17.44.020A.7, as a means through which public parking can be provided where it is unfeasible to provide such parking as part of on-site development projects; and

WHEREAS, Morro Bay Municipal Code Section 17.44.020A.7.b states that monies accumulated in the Parking In-Lieu Fund shall be used for planning, design, acquisition or lease of land and development/redevelopment of public parking facilities; and

WHEREAS, Morro Bay Municipal Code Section 17.44.020A.7.f authorizes the establishment of Parking In-Lieu Fees by Resolution of the Council; and

WHEREAS, during budget hearings in May and June 2005, the City Council appropriated Parking In-Lieu fees to lease the parking lot at 714 Embarcadero, \$80,000 per year; and

WHEREAS, on September 12, 2005, the City Council held a public hearing regarding preparing a comprehensive Parking Management Plan and modifying the Parking In-Lieu Fee; and

WHEREAS, the City Council has considered the information provided to it by those testifying and has reviewed and considered the information provided in the staff report and staff presentation and has read and considered all of the documentation related to Parking In-Lieu Fees.


NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Morro Bay, in compliance with policy number 2.08 of the Land Use Plan of the Local Coastal Plan, and Ordinance No. 337, that the City Council does hereby consider and estimate an amount necessary to provide parking, including planning, design, land acquisition or lease and construction of improvements; and determines that the Parking In-Lieu Fee is hereby amended from \$4,000 per parking space to \$15,000 per parking space.

BE IT FURTHER RESOLVED, by the City Council of the City of Morro Bay, that \$80,000.00 is hereby appropriated from the Parking In-Lieu Fund to lease the property at 714 Embarcadero, Morro Bay, California.

BE IT FURTHER RESOLVED, by the City Council of the City of Morro Bay, that preparing and adopting a comprehensive Parking Management Plan is hereby designated as a project for use of In-Lieu Parking Fee funds.

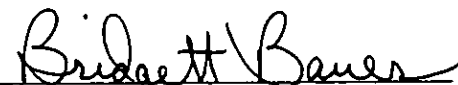
PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting held thereof this 26th day of September 2005 by the following roll call vote:

AYES: BAXLEY, PETERS, WINHOLTZ
NOES: DEMERITT, PEIRCE
ABSENT: NONE



JANICE PETERS, Mayor

ATTEST:



BRIDGETT BAUER, City Clerk

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – MAY 3, 2016
VETERANS MEMORIAL BUILDING – 6:00 PM

PRESENT:	Robert Tefft Gerald Luhr Michael Lucas Richard Sadowski Joe Ingraffia	Chairperson Vice-Chairperson Commissioner Commissioner Commissioner
STAFF:	Scot Graham Cindy Jacinth Joan Gargiulo Whitney McIlvaine	Community Development Manager Associate Planner Assistant Planner Contract Planner

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS - NONE

PUBLIC COMMENT PERIOD
<https://youtu.be/amERrkchMbQ?t=2m7s>

Chairperson Tefft opened Public Comment period.

Jan Paulson, Morro Bay resident, wanted to follow up with the previous WRFCAC meeting issues. Paulson wanted more information on the property south side of the Righetti property and on the Tri W property.

Graham responded there was a WRFCAC meeting today which discussed the issues Paulson inquired about. Graham stated the WRFCAC made recommendations to move forward to City Council.

Chairperson Tefft closed the Public Comment period.
<https://youtu.be/amERrkchMbQ?t=5m7s>

PRESENTATIONS – NONE

A. CONSENT CALENDAR
<https://youtu.be/amERrkchMbQ?t=5m11s>

A-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.

A-2 Approval of minutes from the Planning Commission meeting of January 19, 2016 and February 2, 2016. **Staff Recommendation:** Approve minutes as submitted.

MOTION: Commissioner Sadowski moved to approve Consent Calendar A-1 and A-2. Vice-Chairperson Luhr seconded and the motion passed unanimously (5-0).
<https://youtu.be/amERrkchMbQ>

B. PUBLIC HEARINGS

B-1 Case No.: CP0-404 and UP0-364

Site Location: 1840 Main Street

Proposal: Coastal Development Permit and Conditional Use Permit for new construction of an approximate 1,400 sf restaurant with outdoor seating only, canopied parking for drive-up service, drive-thru service, and associated site improvements including ground work, retaining walls, frontage improvements, and landscaping. The project includes removal of existing flatwork and landscaping on a vacant lot from previous development. The project also include a master sign program including total signage area exceeding City standards. In addition, the project will include utility trenching of 4-6 feet across Main Street to the west of the property as well as trenching across Caltrans right of way which fronts on Atascadero Road. This project is located outside the Coastal Commission appeals jurisdiction.

CEQA Determination: Mitigated Negative Declaration

Staff Recommendation: Continue to the 5/17/2016 Planning Commission hearing for required legal noticing

Staff Contact: Cindy Jacinth, Associate Planner, (805) 772-6577

<https://youtu.be/amERrkchMbQ?t=6m1s>

The item will be continued at the May 17th Planning Commission meeting due to an error in the noticing.

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS – Commissioner Sadowski read his appeal letter which he shared with staff and passed out to the Council.

MOTION: Vice-Chairperson Luhr moved to continue the item to the May 17th Planning Commission meeting. Commissioner Lucas seconded and the motion passed unanimously (5-0).

<https://youtu.be/amERrkchMbQ?t=35m20s>

B – 2 Case No.: A00-029 (Local Coastal Program and Zoning Text Amendment)

Site Location: Citywide

Applicant/Project Sponsor City of Morro Bay

Proposed Amendment: Local Coastal Program and Zoning Text Amendment proposing to amend 1) Section 17.48.320 *Granny Second Units*, modifying the section to be consistent with State law, 2) Section 17.48.315

Guesthouses/Quarters and Accessory Areas, and 3) other related sections in the Morro Bay Municipal Code for internal consistency.

CEQA Determination: Negative Declaration.

Staff Recommendation: Forward a favorable recommendation to the City Council to approve the proposed Amendment to Ordinance 601 regarding use of secondary dwelling units as vacation rentals and find it consistent with the Negative Declaration.

Staff Contact: Whitney McIlvaine, Contract Planner (805) 772-6211

<https://youtu.be/amERrkchMbQ?t=35m47s>

McIlvaine presented staff report.

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS –
NONE

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/amERrkchMbQ?t=40m8s>

Betty Winholtz, Morro Bay resident, suggested a change for the proposed grandfathering clause and asked staff if a vacation rental permit could be sold to a new owner. Winholtz stated she would like to see when the affected property is sold, the grandfather clause is no longer good.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/amERrkchMbQ?t=41m34s>

MOTION: Commissioner Lucas moved to adopt PC Resolution 14-16 with recommendations to City Council to consider clauses discussed regarding change of ownership and expansion of secondary dwelling unit. Commissioner Ingraffia seconded and the motion passed (4-0), Vice-Chairperson Luhr abstained.

<https://youtu.be/amERrkchMbQ?t=1h3m27s>

C. NEW BUSINESS

C-1 Review and discussion of historic parking credits

Staff Recommendation: Review and discussion

<https://youtu.be/amERrkchMbQ?t=1h4m45s>

Gargiulo presented staff report.

Discussion between staff and Planning Commission.

Planning Commission forwarded recommendation to City Council to memorialize historic parking credits, suspend parking in-lieu fees for the Parking Management District, and provide direction for the evaluation of the overall Commercial Parking Program as part of the General Plan/Local Coastal Program update process.

C-2 Review and discussion of the boat haul out facility preliminary design plan - *no staff report*

Staff Recommendation: Review and discussion

<https://youtu.be/amERrkchMbQ?t=1h34m50s>

Graham presented staff report.

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – MAY 3, 2016

Discussion between staff and Planning Commission.

D. UNFINISHED BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS

<https://youtu.be/amERrkchMbQ?t=2h8s>

Sadowski announced there was an article in the Tribune regarding Lois Capps meeting to support the Chumash Heritage National Marine Sanctuary.

F. COMMUNITY DEVELOPMENT MANAGER COMMENTS

<https://youtu.be/amERrkchMbQ?t=2h1m39s>

Graham announced there will be an upcoming workshop at the Vet's Memorial Building on May 25th from 6:30 pm to 8:30 pm. The workshop is for the Centennial Stairway and Embarcadero widening project.

G. ADJOURNMENT

The meeting adjourned at 8:04 p.m. to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on May 17, 2016, at 6:00 p.m.

Robert Tefft, Chairperson

ATTEST:

Scot Graham, Secretary